

By: Senator(s) Carlton

To: Business and
Financial
Institutions

SENATE BILL NO. 2542

1 AN ACT TO AMEND SECTION 73-34-5, MISSISSIPPI CODE OF 1972, TO
2 ELIMINATE THE PROHIBITION ON REAL ESTATE BROKERS AND SALESPERSONS
3 OF RECEIVING COMPENSATION FOR AN OPINION AS TO THE PRICE OF REAL
4 ESTATE FOR THE PURPOSE OF A PROSPECTIVE LISTING; AND FOR RELATED
5 PURPOSES. BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF
6 MISSISSIPPI:

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8 SECTION 1. Section 73-34-5, Mississippi Code of 1972, is
9 amended as follows:

10 73-34-5. (1) Except as otherwise provided for in this
11 section, it shall be unlawful for anyone to engage in real estate
12 appraisal activity in this state without first obtaining one (1)
13 of the four (4) real estate appraiser licenses as provided in this
14 chapter.

15 (a) Any person who is engaged in real estate appraisal
16 activity on July 1, 1990, shall continue through June 30, 1991, to
17 be subject to the provisions of the Real Estate Brokers License
18 Law of 1954, but, thereafter, all real estate appraisal activity
19 shall be governed by and licensed pursuant to the provisions of
20 this chapter. However, if the United States Congress or the
21 Appraisal Subcommittee of the Federal Financial Institutions
22 Examination Council extends the effective date for the use of
23 certified or licensed appraisers in federally related
24 transactions, then the above date of June 30, 1991, shall be
25 extended to the date immediately preceding such extended effective
26 date. In addition, if such appraisal subcommittee waives any
27 requirement relating to certification or licensing of persons to
28 perform appraisals in Mississippi, then such waiver shall also be

effective in Mississippi under the Real Estate Appraiser Licensing and Certification Act and such requirement shall be waived by the Real Estate Appraiser Licensing and Certification Board until the waiver is terminated by the appraisal subcommittee. The Mississippi Real Estate Appraiser Licensing and Certification Board shall waive or modify statutory minimum requirements for hours of courses of study and provide by regulation for applicants who desire to do so to challenge the examinations, or one or some of them, by taking an examination on such courses without actually taking such courses, if such waivers or modifications are allowed or allowable under law or regulations adopted and promulgated by the United States Congress or the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

(b) The provisions of this chapter shall not apply to any director, officer or salaried employee of commercial banks, savings banks, credit unions, and savings and loan associations, when engaged in appraisal or evaluation activities for and on behalf of such financial institution unless there is a fee charged for the appraisal or evaluation; provided that a federal statute, rule or regulation does not require such appraisal or evaluation activities to be performed by a state licensed appraiser.

(c) This section shall not be construed to apply to individuals who do not render significant professional assistance in arriving at a real estate appraisal analysis, opinion or conclusion. Examples of the type of assistance which are not considered "significant professional assistance" under this section include the following: (i) assistance in obtaining the data upon which the appraisal is based; (ii) assistance in the physical preparation of the appraisal report (such as taking photographs, preparing charts, maps or graphs, or typing or printing the report); and (iii) any other assistance that does not directly involve the exercise of judgment in arriving at the analysis, opinions or conclusions concerning real estate or real property set forth in the appraisal report.

(2) This chapter shall not apply to a real estate broker or salesperson licensed by this state who, in the ordinary course of his business, gives an opinion as to the price of real estate for

66 the purpose of a prospective listing or sale; provided, however,
67 that the broker or salesperson does not represent himself as a
68 certified or licensed appraiser * * *.

69 (3) The provisions of this chapter shall not apply to any
70 state, county, or municipal public officers or their salaried
71 employees while performing their duties as such.

72 (4) No license shall be issued under the provisions of this
73 chapter to a corporation, partnership, firm or group.

74 (5) The provisions of this chapter shall not apply to
75 individuals performing timber cruises, valuation on timberland
76 real estate appraisals for nonfederally related transactions.

77 SECTION 2. This act shall take effect and be in force from
78 and after its passage.