

By: Ketchings, Formby

To: Insurance

## HOUSE BILL NO. 687

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 paragraph (b)  
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 paragraph (b) herein 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 "inactive agent" shall mean an individual who is  
47 retired, disabled or has not obtained from the Commissioner of  
48 Insurance a current continuous certificate. An inactive agent  
49 shall not solicit new business or service existing business, but  
50 may receive renewal commissions.

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

65 both the agent and the solicitor after proper hearing. The  
66 commission of any unlawful act by the solicitor shall be prima  
67 facie evidence that the agent had knowledge of such act.

68 The term "insurance agent" as used in this article refers to  
69 and includes all insurance agents not thus employed as "insurance  
70 solicitors." No license or renewal license as a resident local  
71 agent shall be granted to any person to act as said agent who is  
72 not actively engaged therein by soliciting and servicing the  
73 insurance-buying public as an agent individually, or as a bona  
74 fide employee of an agent or agency; and no renewal license shall  
75 be issued to any agent until it is conclusively shown by filing an  
76 affidavit with the Commissioner of Insurance or otherwise that not  
77 more than thirty-five per cent (35%) of the aggregate amount of  
78 commissions of the said agent was derived from "controlled  
79 business" as referred to and defined hereinafter.

80 The terms "insurance company" and "insurance carrier" as used  
81 in this article refer to and include all stock, mutual,  
82 reciprocal, and other types of insurance companies, carriers,  
83 associations, or exchanges writing the type or types of insurance  
84 to which this article applies.

85 The term "person" as used in this article includes any  
86 individual, partnership or corporation incorporated under Sections  
87 79-10-1 through 79-10-117, being the Mississippi Professional  
88 Corporation Act, and Sections 79-29-901 through 79-29-933, being  
89 the Mississippi Limited Liability Company Act.

90 SECTION 2. This act shall take effect and be in force from  
91 and after July 1, 2000.