HOUSE BILL NO. 658
(As Sent to Governor)

1. AN ACT TO PROVIDE PROCEDURES FOR THE LICENSING OF INSURANCE
   PRODUCERS; TO PROVIDE DEFINITIONS; TO PROVIDE FOR WRITTEN
   EXAMINATIONS AND FEES FOR LICENSURE OF INSURANCE PRODUCERS; TO
   PROVIDE CERTAIN EXEMPTIONS FROM THE WRITTEN EXAMINATION; TO
   PROVIDE FOR TEMPORARY LICENSURE; TO PROVIDE FOR A HEARING BEFORE
   THE INSURANCE COMMISSIONER FOR NONRENEWAL OR DENIAL OF LICENSE; TO
   REQUIRE LICENSURE BEFORE A PERSON MAY ACCEPT A COMMISSION FOR
   SELLING, SOLICITING OR NEGOTIATING INSURANCE IN THIS STATE; TO
   PROVIDE CERTAIN IMMUNITIES; TO PROVIDE CERTAIN PENALTIES; TO
   AUTHORIZE THE COMMISSIONER OF INSURANCE TO PROMULGATE REGULATIONS
   TO CARRY OUT THE PURPOSES OF THIS ACT; TO CREATE SECTIONS
   83-17-37, 83-17-39, 83-17-41, 83-17-43, 83-17-45 AND 83-17-47,
   MISSISSIPPI CODE OF 1972, IN ORDER TO MOVE EXISTING LAW TO A
   27-15-93, 83-17-1, 83-17-251 AND 83-31-37, MISSISSIPPI CODE OF
   1972, IN CONFORMITY THERETO; TO REPEAL SECTIONS 83-17-9, 83-17-11,
   83-17-15, 83-17-17, 83-17-23, 83-17-27, 83-17-29, 83-17-31,
   83-17-33, 83-17-35, 83-17-101, 83-17-103, 83-17-105, 83-17-107,
   83-17-109, 83-17-111, 83-17-113, 83-17-115, 83-17-117, 83-17-119,
   83-17-121, 83-17-123, 83-17-125, 83-17-127, 83-17-129, 83-17-131,
   83-17-133, 83-17-135, 83-17-201, 83-17-203, 83-17-205, 83-17-207,
   83-17-209, 83-17-211, 83-17-213, 83-17-215, 83-17-217, 83-17-219,
   83-17-221, 83-17-223, 83-17-301, 83-17-303, 83-17-305, 83-17-307,
   83-17-309 AND 83-21-15, MISSISSIPPI CODE OF 1972, WHICH RELATE TO
   THE LICENSING AND REGULATION OF INSURANCE AGENTS; AND FOR RELATED
   PURPOSES.

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

SECTION 1. The purpose of this article is to provide the
qualifications and procedures required for the licensing of
insurance producers. This article does not apply to excess and
surplus lines agents and brokers licensed under Sections 83-21-17
through 83-21-31 except as provided in Section 8 and Section 14(3)
of this act, or to domestic title insurance companies and their
agents licensed under Sections 83-15-1 through 83-15-11, except as
provided in Section 13 of this act.
SECTION 2. The following words and phrases shall have the meanings ascribed herein unless the context clearly indicates otherwise:

(a) "Business entity" means a corporation, association, partnership, limited liability company, limited liability partnership or other legal entity.

(b) "Commissioner" means the Commissioner of Insurance.

(c) "Home state" means the District of Columbia and any state or territory of the United States in which an insurance producer maintains his or her principal place of residence or principal place of business and is licensed to act as an insurance producer.

(d) "Insurance" means any of the lines of authority in Section 83-19-1.

(e) "Insurance producer" means a person required to be licensed under the laws of this state to sell, solicit or negotiate insurance.

(f) "Insurer" means that as defined in Section 83-6-1.

(g) "License" means a document issued by the commissioner authorizing a person to act as an insurance producer for the lines of authority specified in the document. The license itself does not create any authority, actual, apparent or inherent, in the holder to represent or commit an insurance carrier.

(h) "Limited line credit insurance" includes credit life, credit disability, credit property, credit unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage disability, guaranteed automobile protection (gap) insurance and any other form of insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing that credit obligation that the commissioner determines should be designated a form of limited line credit insurance.
(i) "Limited line credit insurance producer" means a person who sells, solicits or negotiates one or more forms of limited line credit insurance coverage to individuals through a master, corporate, group or individual policy.

(j) "Limited lines insurance" means those lines of insurance defined in Section 83-19-1, Class 1(b), (p) and (q) and Section 83-19-1, Class 2(d) or any other line of insurance that the commissioner deems necessary to recognize for the purposes of complying with Section 8(5) of this act.

(k) "Limited lines producer" means a person authorized by the commissioner to sell, solicit or negotiate limited lines insurance.

(l) "Negotiate" means the act of conferring directly with or offering advice directly to a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms or conditions of the contract, if the person engaged in that act either sells insurance or obtains insurance from insurers for purchasers.

(m) "Person" means an individual or a business entity.

(n) "Sell" means to exchange a contract of insurance by any means, for money or its equivalent, on behalf of an insurance company.

(o) "Solicit" means attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance from a particular company.

(p) "Terminate" means the cancellation of the relationship between an insurance producer and the insurer or the termination of a producer's authority to transact insurance.

(q) "Uniform business entity application" means the current version of the NAIC uniform business entity application for resident and nonresident business entities.
(r) "Uniform application" means the current version of the NAIC uniform application for resident and nonresident producer licensing.

SECTION 3. (1) A person shall not sell, solicit or negotiate insurance in this state for any class or classes of insurance unless the person is licensed for that line of authority in accordance with this article.

(2) No license shall be issued to a partnership unless all the partners thereof satisfy the same requirements in every respect for an individual producer provided for in this article.

SECTION 4. (1) Nothing in this article shall be construed to require an insurer to obtain an insurance producer license. In this section, the term "insurer" does not include an insurer's officers, directors, employees, subsidiaries or affiliates.

(2) A license as an insurance producer shall not be required of the following:

(a) An officer, director or employee of an insurer or of an insurance producer, if the officer, director or employee does not receive any commission on policies written or sold to insure risks residing, located or to be performed in this state and:

(i) The officer, director or employee's activities are executive, administrative, managerial, clerical or a combination of these and are only indirectly related to the sale, solicitation or negotiation of insurance; or

(ii) The officer, director or employee's function relates to underwriting, loss control or inspection of insurance; or

(iii) The officer, director or employee is acting in the capacity of a special agent or agency supervisor assisting insurance producers where the person's activities are limited to providing technical advice and assistance to licensed insurance
of insurance;

(b) A person who secures and furnishes information for
the purpose of group life insurance, group property and casualty
insurance, group annuities, group or blanket accident and health
insurance or for the purpose of enrolling individuals under plans
or issuing certificates under plans or otherwise assisting in
administering plans; or who performs administrative services
related to mass marketed property and casualty insurance where no
commission is paid to the person for the service;

(c) An employer or association or its officer,
directors, employees, or the trustees of an employee trust plan,
to the extent that the employers, officers, employees, director or
trustees are engaged in the administration or operation of a
program of employee benefits for the employer's or association's
own employees or the employees of its subsidiaries or affiliates,
which program involves the use of insurance issued by an insurer,
as long as the employers, associations, officers, directors,
employees or trustees are not in any manner compensated, directly
or indirectly, by the company issuing the contracts;

(d) Employees of insurers or organizations employed by
insurers who are engaging in the inspection, rating or
classification of risk or in the supervision of the training of
insurance producers and who are not individually engaged in the
sale, solicitation or negotiation of insurance;

(e) A person whose activities in this state are limited
to advertising without the intent to solicit insurance in this
state through communications in printed publications or other
forms of electronic mass media whose distribution is not limited
to residents of the state, if the person does not sell, solicit or
negotiate insurance that would insure risks residing, located or
to be performed in this state;
(f) A person who is not a resident of this state who sells, solicits or negotiates a contract of insurance for commercial property and casualty risks to an insured with risks located in more than one (1) state insured under that contract, if that person is otherwise licensed as an insurance producer to sell, solicit or negotiate that insurance in the state where the insured maintains its principal place of business and the contract of insurance insures risks located in that state; or

(g) A salaried full-time employee who counsels or advises his or her employer relative to the insurance interests of the employer or of the subsidiaries or business affiliates of the employer if the employee does not sell or solicit insurance or receive a commission.

SECTION 5. (1) A resident individual applying for an insurance producer license shall pass a written examination unless exempt under Section 9 of this act or Section 83-17-39. The examination shall test the knowledge of the individual concerning the lines of authority for which application is made, the duties and responsibilities of an insurance producer and the insurance laws and regulations of this state. Examinations required by this section shall be developed and conducted under rules and regulations prescribed by the commissioner.

(2) The commissioner may make arrangements, including contracting with an outside testing service, for administering examinations and collecting a nonrefundable examination fee.

(3) Each individual applying for an examination shall remit a nonrefundable fee as prescribed by the commissioner.

(4) An individual who fails to appear for the examination as scheduled or fails to pass the examination shall reapply for an examination and remit all required fees and forms before being rescheduled for another examination.

SECTION 6. (1) A person applying for a resident insurance producer license shall make application to the commissioner on the
uniform application and declare under penalty of refusal, suspension or revocation of the license that the statements made in the application are true, correct and complete to the best of the individual's knowledge and belief. Before approving the application, the commissioner shall find that the individual:

(a) Is at least eighteen (18) years of age;

(b) Has not committed any act that is a ground for denial, suspension or revocation set forth in Section 11 of this act;

(c) Where required by the commissioner, has completed a prelicensing course of study for the lines of authority for which the person has applied;

(d) Has paid the fees set forth in Sections 27-15-87 and 27-15-93; and

(e) Has successfully passed the examinations for the lines of authority for which the person has applied.

(2) A business entity acting as an insurance producer is required to obtain an insurance producer license. Application shall be made using the uniform business entity application. Before approving the application, the commissioner shall find that:

(a) The business entity has paid the fees set forth in Sections 27-15-85 and 27-15-93; and

(b) The business entity has designated a licensed producer responsible for the business entity's compliance with the insurance laws, rules and regulations of this state.

(3) The commissioner may require any documents reasonably necessary to verify the information contained in an application.

(4) Each insurer that sells, solicits or negotiates any form of limited line credit insurance shall provide to each individual whose duties include selling, soliciting or negotiating limited line credit insurance a program of instruction that may be approved by the commissioner.
SECTION 7. (1) Unless denied licensure under Section 11 of this act, persons who have met the requirements of Sections 5 and 6 of this act, shall be issued an insurance producer license. An insurance producer may receive qualification for a license in one or more of the following lines of authority:

(a) Life: insurance coverage on human lives including benefits of endowment and annuities and may include benefits in the event of death or dismemberment by accident and benefits for disability income.

(b) Accident and health or sickness: insurance coverage for sickness, bodily injury or accidental death and may include benefits for disability income.

(c) Property: insurance coverage for the direct or consequential loss or damage to property of every kind.

(d) Casualty: insurance coverage against legal liability, including that for death, injury or disability or damage to real or personal property.

(e) Variable life and variable annuity products: insurance coverage provided under variable life insurance contracts and variable annuities.

(f) Personal lines: property and casualty insurance coverage sold to individuals and families for primarily noncommercial purposes.

(g) Credit: limited line credit insurance.

(h) Any other line of insurance permitted under state laws or regulations.

(2) An insurance producer license shall remain in effect unless revoked or suspended as long as the fee set forth in Sections 27-15-87 and 27-15-93 is paid and education requirements for resident individual producers are met by the due date.

(3) An individual insurance producer who allows his or her license to lapse may, within twelve (12) months from the due date of the renewal fee, reinstate the same license without the
necessity of passing a written examination. However, a penalty in
the amount of double the unpaid renewal fee shall be required for
any renewal fee received after the due date.

(4) A licensed insurance producer who is unable to comply
with license renewal procedures due to military service or some
other extenuating circumstances, including, but not limited to, a
long-term medical disability may request a waiver of those
procedures. The producer may also request a waiver of any
examination requirement or any other fine or sanction imposed for
failure to comply with renewal procedures.

(5) The license shall contain the licensee's name, address,
personal identification number and the date of issuance, the lines
of authority, the expiration date and any other information the
commissioner deems necessary.

(6) Licensees shall inform the commissioner by any means
acceptable to the commissioner of a change of address within
thirty (30) days of the change. Failure to timely inform the
commissioner of a change in legal name or address shall result in
a penalty under Section 11 of this act.

(7) In order to assist in the performance of the
commissioner's duties, the commissioner may contract with
nongovernmental entities, including the National Association of
Insurance Commissioner (NAIC) or any affiliates or subsidiaries
that the NAIC oversees, to perform any ministerial functions,
including the collection of fees, related to producer licensing
that the commissioner and the nongovernmental entity may deem
appropriate.

SECTION 8. (1) Unless denied licensure pursuant to Section
11 of this act, a nonresident person shall receive a nonresident
producer license if:

(a) The person is currently licensed as a resident and
is in good standing in his or her home state;
(b) The person has submitted the proper request for licensure and has paid the fees required by Sections 27-15-87 and 27-15-93;

(c) The person has submitted or transmitted to the commissioner the application for licensure that the person submitted to his or her home state, or a completed uniform application; and

(d) The person's home state awards nonresident producer licenses to residents of this state on the same basis.

(2) The commissioner may verify the producer's licensing status through the producer database maintained by the National Association of Insurance Commissioners, its affiliates or subsidiaries.

(3) A nonresident producer who moves from one state to another state or a resident producer who moves from this state to another state shall file a change of address and provide certification from the new resident state within thirty (30) days of the change of legal residence. No fee or license application is required.

(4) Notwithstanding any other provision of this article, a person licensed as a surplus lines producer in his or her home state shall receive a nonresident surplus lines producer license in accordance with subsection (1) of this section. Except as to subsection (1) of this section, nothing in this section otherwise amends or supercedes any provision of Sections 83-21-17 through 83-21-31.

(5) Notwithstanding any other provision of this article, a person licensed as a limited line credit insurance or other type of limited lines producer in his or her home state shall receive a nonresident limited lines producer license in accordance with subsection (1) of this section, granting the same scope of authority as granted under the license issued by the producer's home state. For the purposes of this subsection, limited line
insurance is any authority granted by the home state which restricts the authority of the license to less than the total authority prescribed in the associated major lines under Section 7(1)(a) through (f) of this act.

SECTION 9. (1) An individual who applies for an insurance producer license in this state who was previously licensed for the same lines of authority in another state shall not be required to complete any prelicensing education or examination. This exemption is only available if the person is currently licensed in that state or if the application is received within ninety (90) days of the cancellation of the applicant's previous license and if the prior state issues a certification that, at the time of cancellation, the applicant was in good standing in that state or the state's producer database records, maintained by the National Association of Insurance Commissioners, its affiliates or subsidiaries, indicate that the producer is or was licensed in good standing for the line of authority requested.

(2) A person licensed as an insurance producer in another state who moves to this state shall make application within ninety (90) days of establishing legal residence to become a resident licensee in accordance with Section 6 of this act. No prelicensing education or examination shall be required of that person to obtain any line of authority previously held in the prior state except where the commissioner determines otherwise by regulation.

SECTION 10. (1) The commissioner may issue a temporary insurance producer license for a period not to exceed one hundred eighty (180) days without requiring an examination if the commissioner deems that the temporary license is necessary for the servicing of an insurance business in the following cases:

(a) To the surviving spouse or court-appointed personal representative of a licensed insurance producer who dies or becomes mentally or physically disabled to allow adequate time for
the sale of the insurance business owned by the producer or for
the recovery or return of the producer to the business or to
provide for the training and licensing of new personnel to operate
the producer's business.
(b) To a member or employee of a business entity
licensed as an insurance producer, upon the death or disability of
an individual designated in the business entity application or the
license;
(c) To the designee of a licensed insurance producer
entering active service in the Armed Forces of the United States
of America; or
(d) In any other circumstance where the commissioner
deems that the public interest will best be served by the issuance
of this license.
(2) The commissioner may by order limit the authority of any
temporary licensee in any way deemed necessary to protect insureds
and the public. The commissioner may require the temporary
licensee to have a suitable sponsor who is a licensed producer or
insurer and who assumes responsibility for all acts of the
temporary licensee and may impose other similar requirements
designed to protect insureds and the public. The commissioner may
by order revoke a temporary license if the interest of insureds or
the public are endangered. A temporary license may not continue
after the owner or the personal representative disposes of the
business.
SECTION 11. (1) The commissioner may place on probation,
suspend, revoke or refuse to issue or renew an insurance
producer's license or may levy a civil penalty in an amount not to
exceed One Thousand Dollars ($1,000.00) per violation and such
penalty shall be deposited into the special fund of the State
Treasury designated as the "Insurance Department Fund" for any one
or more of the following causes:
(a) Providing incorrect, misleading, incomplete or materially untrue information in the license application;
(b) Violating any insurance laws, or violating any regulation, subpoena or order of the commissioner or of another state's commissioner;
(c) Obtaining or attempting to obtain a license through misrepresentation or fraud;
(d) Improperly withholding, misappropriating or converting any monies or properties received in the course of doing insurance business;
(e) Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance;
(f) Having been convicted of a felony;
(g) Having admitted or been found to have committed any insurance unfair trade practice or fraud;
(h) Using fraudulent, coercive or dishonest practices or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere;
(i) Having an insurance producer license, or its equivalent, denied, suspended or revoked in any other state, province, district or territory;
(j) Forging another's name to an application for insurance or to any document related to an insurance transaction;
(k) Improperly using notes or any other reference material to complete an examination for an insurance license;
(l) Knowingly accepting insurance business from an individual who is not licensed;
(m) Failing to comply with an administrative or court order imposing a child support obligation; or
(n) Failing to pay state income tax or comply with any administrative or court order directing payment of state income tax.

(2) If the action by the commissioner is to nonrenew or to deny an application for a license, the commissioner shall notify the applicant or licensee and advise, in writing, the applicant or licensee of the reason for the denial or nonrenewal of the applicant's or licensee's license. The applicant or licensee may make written demand upon the commissioner within ten (10) days for a hearing before the commissioner to determine the reasonableness of the commissioner's action. The hearing shall be held within thirty (30) days.

(3) The license of a business entity may be suspended, revoked or refused if the commissioner finds, after hearing, that an individual licensee's violation was known or should have been known by one or more of the partners, officers or managers acting on behalf of the partnership or corporation and the violation was neither reported to the commissioner nor corrective action taken.

(4) In addition to or in lieu of any applicable denial, suspension or revocation of a license, a person may, after hearing, be subject to a civil fine not to exceed One Thousand Dollars ($1,000.00) per violation and such fine shall be deposited into the special fund in the State Treasury designated as the "Insurance Department Fund."

(5) The commissioner shall retain the authority to enforce the provisions of and impose any penalty or remedy authorized by this article and Title 83, Mississippi Code of 1972, against any person who is under investigation for or charged with a violation of this article or Title 83, Mississippi Code of 1972, even if the person's license or registration has been surrendered or has lapsed by operation of law.

(6) No licensee whose license has been revoked hereunder shall be entitled to file another application for a license as a

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producer within one (1) year from the effective date of such revocation or, if judicial review of such revocation is sought, within one (1) year from the date of final court order or decree affirming such revocation. Such application, when filed, may be refused by the commissioner unless the applicant shows good cause why the revocation of his license shall not be deemed a bar to the issuance of a new license.

SECTION 12.  (1) An insurance company or insurance producer shall not pay a commission, service fee, brokerage or other valuable consideration to a person for selling, soliciting or negotiating insurance in this state if that person is required to be licensed under this article and is not so licensed.

(2) A person shall not accept a commission, service fee, brokerage or other valuable consideration for selling, soliciting or negotiating insurance in this state if that person is required to be licensed under this article and is not so licensed.

(3) Renewal or other deferred commissions may be paid to a person for selling, soliciting or negotiating insurance in this state if the person was required to be licensed under this article at the time of the sale, solicitation or negotiation and was so licensed at that time.

(4) An insurer or insurance producer may pay or assign commissions, service fees, brokerages or other valuable consideration to an insurance agency or to persons who do not sell, solicit or negotiate insurance in this state, unless the payment would violate Section 83-17-7 or any other applicable provision of Title 83, Mississippi Code of 1972.

SECTION 13.  (1) An insurance producer shall not act as an agent of an insurer unless the insurance producer becomes an appointed agent of that insurer. An insurance producer who is not acting as an agent of a noninsurer is not required to become appointed.
(2) To appoint a producer as its agent, the appointing insurer shall file, in a format approved by the commissioner, a notice of appointment within fifteen (15) days from the date the agency contract is executed or the first insurance application is submitted. An insurer may also elect to appoint a producer to all or some insurers within the insurer's holding company system or group by the filing of a single appointment request.

(3) Upon receipt of the notice of appointment, the commissioner shall verify within a reasonable time not to exceed thirty (30) days that the insurance producer is eligible for appointment. If the insurance producer is determined to be ineligible for appointment, the commissioner shall notify the insurer within five (5) days of its determination.

(4) An insurer shall pay an appointment fee, in the amount and method of payment set forth in Section 83-17-5 for each insurance producer appointed by the insurer.

(5) An insurer shall remit, in a manner prescribed by the commissioner, a renewal appointment fee in the amount set forth in Section 83-17-5.

(6) Before the issuance of a license or certificate of authority, the commissioner shall require the company requesting appointment of the applicant as producer for the first time to furnish a certificate to the commissioner, verified by an executive officer or managing general or special agent of such company, that the company has duly investigated the character and record of such person and has satisfied itself that such person is of good moral character and is qualified, fit and trustworthy to act as its producer. The Commissioner of Insurance may at any time require any company to obtain a credit report on a producer if the commissioner deems such request advisable. Should such credit report reflect information regarding an offense or violation in relation to which the Department of Insurance has taken action, such information shall not render the applicant
ineligible for a license if applicant has complied with the order of the commissioner regarding such offense.

SECTION 14. (1) An insurer or authorized representative of the insurer that terminates the appointment, employment, contract or other insurance business relationship with a producer shall notify the commissioner within thirty (30) days following the effective date of the termination, using a format prescribed by the commissioner, if the reason for termination is one of the reasons set forth in Section 11 of this act or the insurer has knowledge the producer was found by a court, government body or self-regulatory organization authorized by law to have engaged in any of the activities in Section 11 of this act. Upon the written request of the commissioner, the insurer shall provide additional information, documents, records or other data pertaining to the termination or activity of the producer.

(2) An insurer or authorized representative of the insurer that terminates the appointment, employment or contract with a producer for any reason not set forth in Section 11 of this act shall notify the commissioner within thirty (30) days following the effective date of the termination using a format prescribed by the commissioner. Upon written request of the commissioner, the insurer shall provide additional information, documents, records or other data pertaining to the termination.

(3) The insurer or the authorized representative of the insurer shall promptly notify the commissioner in a format acceptable to the commissioner if, upon further review or investigation, the insurer discovers additional information that would have been reportable to the commissioner in accordance with subsection (1) of this section had the insurer then known of its existence.

(4) (a) Within fifteen (15) days after making the notification required by subsections (1), (2) and (3) of this section, the insurer shall mail a copy of the notification to the
producer at his or her last known address. If the producer is terminated for cause for any of the reasons listed in Section 11 of this section, the insurer shall provide a copy of the notification to the producer at his or her last known address by certified mail, return receipt requested, postage prepaid or by overnight delivery using a nationally recognized carrier.

(b) Within thirty (30) days after the producer has received the original or additional notification, the producer may file written comments concerning the substance of the notification with the commissioner. The producer shall, by the same means, simultaneously send a copy of the comments to the reporting insurer, and the comments shall become a part of the commissioner's file and accompany every copy of a report distributed or disclosed for any reason about the producer as permitted under subsection (6) of this section.

(5) (a) In the absence of actual malice, an insurer, the authorized representative of the insurer, a producer, the commissioner or an organization of which the commissioner is a member and that compiles the information and makes it available to other commissioners or regulatory or law enforcement agencies shall not be subject to civil liability, and a civil cause of action of any nature shall not arise against these entities or their respective agents or employees, as a result of any statement or information required by or provided under this section or any information relating to any statement that may be requested in writing by the commissioner from an insurer or producer or a statement by a terminating insurer or producer to an insurer or producer limited solely and exclusively to whether a termination for cause under subsection (1) of this section was reported to the commissioner if the propriety of any termination for cause under subsection (1) of this section is certified in writing by an officer or authorized representative of the insurer or producer terminating the relationship.
(b) In any action brought against a person that may have immunity under paragraph (a) of this subsection for making any statement required by this section or providing any information relating to any statement that may be requested by the commissioner, the party bringing the action shall plead specifically in any allegation that paragraph (a) of this subsection does not apply because the person making the statement or providing the information did so with actual malice.

(c) Paragraph (a) or (b) of this subsection shall not abrogate or modify any existing statutory or common law privileges or immunities.

(6) (a) Any documents, materials or other information in the control or possession of the Department of Insurance that is furnished by an insurer, producer or an employee or agent thereof acting on behalf of the insurer or producer or obtained by the commissioner in an investigation under this section shall be confidential by law and privileged, shall not be subject to the Public Records Act, shall not be subject to subpoena and shall not be subject to discovery or admissible in evidence in any private civil action. However, the commissioner is authorized to use the documents, materials or other information in the furtherance of any regulatory or legal action brought as a part of the commissioner's duties.

(b) Neither the commissioner nor any person who received documents, materials or other information while acting under the authority of the commissioner shall be permitted or required to testify in any private civil action concerning any confidential documents, materials or information subject to paragraph (a) of this subsection.

(c) In order to assist in the performance of the commissioner's duties under this article, the commissioner:

(i) May share documents, materials or other information, including the confidential and privileged documents,
materials or information subject to paragraph (a) of this subsection, with other state, federal and international regulatory agencies, with the National Association of Insurance Commissioners, its affiliates or subsidiaries and with state, federal and international law enforcement authorities, if the recipient agrees to maintain the confidentiality and privileged status of the document, material or other information;

(ii) May receive documents, materials or information, including otherwise confidential and privileged documents, materials or information, from the National Association of Insurance Commissioners, its affiliates or subsidiaries and from regulatory and law enforcement officials of other foreign or domestic jurisdictions and shall maintain as confidential or privileged any document, material or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material or information; and

(iii) May enter into agreements governing sharing and use of information consistent with this subsection.

(d) No waiver of any applicable privilege or claim of confidentiality in the documents, materials or information shall occur as a result of disclosure to the commissioner under this section or as a result of sharing as authorized in paragraph (c) of this subsection.

(e) Nothing in this article shall prohibit the commissioner from releasing final, adjudicated actions including for cause terminations that are open to public inspection pursuant to the Public Records Act to a database or other clearinghouse service maintained by the National Association of Insurance Commissioners, its affiliates or subsidiaries of the National Association of Insurance Commissioners.

(7) An insurer, the authorized representative of the insurer or producer that fails to report as required under the provisions
of this section or that is found to have reported with actual malice by a court of competent jurisdiction may, after notice and hearing, have its license or certificate of authority suspended or revoked and may be fined in accordance with all applicable statutes.

SECTION 15. (1) The commissioner shall waive any requirements for a nonresident license applicant with a valid license from his or her home state, except the requirements imposed by Section 8 of this act, if the applicant's home state awards nonresident licenses to residents of this state on the same basis.

(2) A nonresident producer's satisfaction of his or her home state's continuing education requirements for licensed insurance producers shall constitute satisfaction of this state's continuing education requirements if the nonresident producer's home state recognizes the satisfaction of its continuing education requirements imposed upon producers from this state on the same basis.

SECTION 16. (1) A producer shall report to the commissioner any administrative action taken against the producer in another jurisdiction or by another governmental agency in this state within thirty (30) days of the final disposition of the matter. This report shall include a copy of the order, consent to order or other relevant legal documents.

(2) Within thirty (30) days of the initial pretrial hearing date, a producer shall report to the commissioner any criminal prosecution of the producer taken in any jurisdiction. The report shall include a copy of the initial complaint filed, the order resulting from the hearing and any other relevant legal documents.

SECTION 17. Any person aggrieved by any action or decision of the Commissioner of Insurance under the provisions of this article may appeal therefrom to the Circuit Court of the First Judicial District of Hinds County by certiorari in the manner...
provided by law. Such appeal shall be without supersedeas, except
that the court may grant supersedeas as otherwise provided by law
where the license is revoked. The court shall have the authority
and jurisdiction to hear the appeal and render its decision in
regard thereto in termtime or vacation.

SECTION 18. For the purpose of making such investigations as
he may deem necessary for the proper administration of this
article, the commissioner shall have inquisitorial powers and
shall be empowered to subpoena witnesses and examine them under
oath, provided that all testimony, documents, and other evidence
required to be submitted to the commissioner pursuant to this
article shall be privileged and shall not be admissible as
evidence in any other proceeding.

SECTION 19. The commissioner may, in accordance with Section
25-43-1 et seq., promulgate reasonable regulations as are
necessary or proper to carry out the purposes of this article.

SECTION 20. If any provisions of this article, or the
application of a provision to any person or circumstances, shall
be held invalid, the remainder of the article, and the application
of the provision to persons or circumstances other than those to
which it is held invalid, shall not be affected.

SECTION 21. The following provision shall be codified as
Section 83-17-37, Mississippi Code of 1972:
83-17-37. (1) Each license issued to a producer shall
expire on the mandated renewal date following the date of issue,
unless prior thereto it is revoked or suspended by the
commissioner.

(2) Each producer shall file an application for renewal of
license on the form and in the manner prescribed by the
commissioner for such purpose. Upon the filing of such
application for renewal of license and the payment of the required
fees, the current license shall continue to be in force until the
renewal license is issued by the commissioner or until the
commissioner has refused for cause to issue such renewal license, as provided in Section 11 of House Bill No. 658, 2001 Regular Session, and has given notice of such refusal in writing to the producer.

SECTION 22. The following provision shall be codified as Section 83-17-39, Mississippi Code of 1972:

83-17-39. (1) Each applicant for a license to act as a producer within this state shall submit to a personal written examination to determine his competence to act as a producer and his familiarity with the pertinent provisions of the laws of this state, and shall pass the same to the satisfaction of the commissioner; except that no such written examination shall be required of:

(a) An applicant for a renewal license unless the commissioner determines that such examination is necessary to establish the competency of the applicant, or unless a license had not been effective as to such applicant within one (1) year preceding the date of filing the application;

(b) An applicant who is a ticket-selling agent of a railroad or steamship company, carrier by air, or public bus carrier who shall act as a producer or solicitor in the sale of accident insurance tickets to individuals;

(c) An applicant who shall be licensed to act only as a producer with respect to life, health and accident insurance on borrowers or debtors commonly known as credit life, health and accident insurance;

(d) In the discretion of the commissioner, an applicant whose license to do business or act as a producer in this state was suspended less than one (1) year prior to the date of application;

(e) An applicant who is an agent of a fraternal benefit society exclusively;
(f) An applicant who is exempt from examination under the provisions of Section 9 of House Bill No. 658, 2001 Regular Session.

(2) The commissioner may establish rules and regulations with respect to the classification of applicants according to the type of insurance contracts to be effected by them if licensed as producers, and with respect to the scope, type and conduct of written examinations to be given pursuant to this section, and the times and places within this state for the holding of such examinations. Such rules and regulations, if established, shall classify applicants for purposes of this section as follows:

(a) Those desiring to write life insurance;

(b) Those desiring to write accident and health insurance, other than industrial accident and health insurance;

(c) Those desiring to write industrial accident and health insurance;

(d) Those desiring to write any combination of two (2) or more of the above classifications; and

(e) Those of such other classification as, in the opinion of the commissioner, are necessary or appropriate.

Examination shall be prepared and given in those subjects only which pertain to the classification or classifications which the applicant desires to write, and no applicant shall be required to take an examination on a subject or subjects pertaining to any other classification.

The rules and regulations of the commissioner, if established, shall designate textbooks, manuals and other materials to be studied by applicants in preparation for examination in each classification designated by the commissioner pursuant to this section. Such textbooks, manuals or other materials may consist of matter available to applicants by purchase from the publisher, or may consist of matter prepared at the direction of the commissioner and distributed to applicants.
upon request therefor and payment of the reasonable cost thereof.

If textbooks, manuals or other materials shall have been designated or prepared by the commissioner pursuant to this section, all examination questions shall be prepared from the contents of such textbooks, manuals or other materials.

SECTION 23. The following provision shall be codified as Section 83-17-41, Mississippi Code of 1972:

83-17-41. The commissioner may, from time to time, make reasonable groupings into type, types or kinds of insurance that may be lawfully written in this state, for the purpose of prescribing reasonable written examinations for producer and solicitor licenses for each group respectively, and for the issuance of limited licenses. Any such licensed producer or solicitor who shall attempt to write any type of business or seek a brokerage commission on a type of business for which he is not properly licensed and authorized shall, after investigation of all circumstances and proper notice of hearing, be subject to hearing for revocation or suspension of the license.

SECTION 24. The following provision shall be codified as Section 83-17-43, Mississippi Code of 1972:

83-17-43. (1) In addition to all other license requirements, examinations for qualifications and fees established and imposed by law, all insurance solicitors shall file with the Commissioner of Insurance, in a form to be prescribed by the commissioner, an application for certificate of appointment as solicitor, signed by an insurance producer who proposes to employ such solicitor and signed and accepted by such solicitor, and shall pay to the commissioner a fee of Two Dollars ($2.00) annually for the issuance of a certificate of appointment under seal of his office, showing the name of such solicitor, the name of an insurance producer or agency for which such individual is licensed to solicit business, and that such insurance producer or insurance agency is duly licensed. Such certificate of
appointment issued by the commissioner shall be cancelled by him at any time upon request of the insurance producer or agency named therein, and shall automatically expire and terminate at the time that the solicitor's employment by, and connection with, the producer or agency named on such certificate terminates.

(2) No person shall act as an insurance solicitor for any insurance producer or agency without first securing from the commissioner the certificate of appointment designating the agency for which he is acting as solicitor, and paying the commissioner the fee herein provided. No person shall, at the same time, act as insurance solicitor for more than one (1) insurance producer or agency.

SECTION 25. The following provision shall be codified as Section 83-17-45, Mississippi Code of 1972:

83-17-45. (1) No producer or other persons shall, within this state, solicit, procure, receive or forward applications for insurance or annuities, or issue or deliver policies for, or in any manner secure, help, or aid in the placing of any contract of insurance or annuity for any person other than himself, directly or indirectly, with any insurer not authorized to do business in this state.

(2) Any producer or any other person who violates the provisions of this section shall be liable for the full amount of any loss sustained on any contract of life, health or accident insurance or annuity made by or through him, directly or indirectly, with any insurer not authorized to do business in this state and, in addition, for any premium taxes which may become due under any law of this state by reason of such contract.

SECTION 26. The following provision shall be codified as Section 83-17-47, Mississippi Code of 1972:

83-17-47. The Commissioner of Insurance shall have the power to administer oaths and affirmations, issue subpoenas and order the attendance and testimony of witnesses and the production of
papers, books and documents. Upon the failure of any person to comply with any subpoena or order issued under the authority of this section, the Commissioner of Insurance may invoke the aid of any court of the state of general jurisdiction. The court thereupon may order such person to comply with the requirements of the subpoena or order to give evidence touching the matter in question. Failure to obey the order of the court may be punished by the court as a contempt thereof.

SECTION 27. Section 27-15-85, Mississippi Code of 1972, is amended as follows:

27-15-85. (1) Upon each incorporated insurance agency licensed to represent fire, casualty, liability, fidelity, surety, guaranty and inland marine insurance companies in municipalities of Classes 1, 2, 3 and 4................................. $100.00. Upon each such incorporated insurance agency in municipalities of Classes 5, 6, 7 and elsewhere in the state............................................... $ 50.00.

The license issued to such incorporated agency shall specify the type, types or kinds of insurance that such incorporated agency is licensed and qualified to transact. Every person acting as agent or solicitor for any such agency shall qualify under the provisions of House Bill No. 658, 2001 Regular Session; and no person shall be exempt from the privilege tax placed on insurance agents by this section by reason of the fact that he is a stockholder or officer in any such incorporated agency, or by reason of the fact that he represents such an agency, but every agent or solicitor, except two (2) executive officers of such agency, shall pay the privilege tax herein imposed.

(2) Upon each incorporated general agent, as defined in Section 83-17-1.................................................. $100.00.

(3) Upon each incorporated "supervising general agent" for life, health and accident insurers as defined in Section 83-17-1.................................................. $100.00.
The privilege licenses issued under this section to "supervising general agents" shall not constitute authority to solicit business within the State of Mississippi, and shall be renewed annually at the time and in the manner prescribed by Section 83-17-25 on application forms which shall be furnished by the Commissioner of Insurance and shall show the name of the insurance company or companies such "supervising general agent" represents, and other additional information as may be required by the Commissioner of Insurance.

SECTION 28. Section 27-15-87, Mississippi Code of 1972, is amended as follows:

27-15-87. Upon each fire, casualty, liability, fidelity, surety, guaranty and/or inland marine agent or solicitor when the total commission of the agency is in excess of Three Thousand Dollars ($3,000.00) annually.............................. $50.00.

Upon each such agent or solicitor when the total commission of the agency does not exceed Three Thousand Dollars ($3,000.00) annually.................................................. $25.00.

Every agent or insurance solicitor for an agent, connected with any insurance agent, firm or corporation who solicits the sale of any of the above-named insurance, whether stock, mutual or reciprocal insurance carriers, directly or indirectly, shall be liable for the above tax.

Whenever a solicitor is employed by any such agent or agency to solicit business for its account, to be placed in the companies represented by said agent or agency, such agent or agency shall make application as provided for in Section 13(6) of House Bill No. 658, 2001 Regular Session, and Section 83-17-217, Mississippi Code of 1972, and pay the above tax on such solicitor and such license issued to him shall authorize such solicitor to solicit insurance for the agency.

At the time of the purchase of the license herein provided, every person, firm, corporation or solicitor shall file an
affidavit with the Insurance Commissioner of the state stating the amount of commissions earned by said agency (whether such agency be conducted by a person, firm or corporation) during the past year, and this affidavit shall be filed at least once each year, and in the event that the commissioner has reason to believe that such affidavit is incorrect, then in such event, said Insurance Commissioner may refuse to accept said affidavit and demand further proof as to the clarification of said person, firm or corporation applying for said license. If the applicant for said license was not engaged in the insurance business during the year preceding the application for said license, then, in such event, the affidavit shall show said fact, and the Insurance Commissioner shall issue to said applicant a yearly license at and for the sum of Twenty-five Dollars ($25.00) as above provided.

SECTION 29. Section 27-15-89, Mississippi Code of 1972, is amended as follows:

27-15-89. (1) Upon each such unincorporated general agent as defined in Section 83-17-1 $50.00.

(2) Upon each traveling salaried representative, not otherwise taxed by this section, of underwriters, associations and reciprocal insurance exchanges * * * and who is compensated on a commission basis $50.00.

(3) Upon each traveling salaried representative, not otherwise taxed by this section, of underwriters, associations and reciprocal exchanges * * * and who is compensated solely on a salaried basis $20.00.

(4) Upon each unincorporated "supervising general agent" for life, health and accident insurers as defined in Section 83-17-1 $50.00.

The privilege licenses issued under this section to "supervising general agents" shall not constitute authority to solicit business within the State of Mississippi, and shall be renewed annually at the time and in the manner prescribed by
Section 83-17-25 on application forms which shall be furnished by the Commissioner of Insurance and shall show the name of the insurance company or companies such "supervising general agent" represents, and other additional information as may be required by the Commissioner of Insurance.

SECTION 30. Section 27-15-93, Mississippi Code of 1972, is amended as follows:

27-15-93. (1) Upon each incorporated insurance agency licensed to represent life, health or accident insurance companies $25.00. The license issued to such incorporated agency shall specify the type, types or kinds of insurance that such incorporated agency is licensed and qualified to transact. Every person acting as agent for any such agency shall qualify under the provisions of House Bill No. 658, 2001 Regular Session; and no person shall be exempt from the privilege tax placed on insurance agents by this section by reason of the fact that he is a stockholder or officer in any such incorporated agency, or by reason of the fact that he represents such an agency, but every agent shall pay the privilege tax herein imposed.

(2) Upon each incorporated supervising general agent, as defined in Section 83-17-1 $100.00.

(3) Upon each life insurance agent engaged exclusively in writing life insurance $20.00. And any life insurance company that knowingly issues a policy where the application has been submitted to it by an agent or other person who has not paid all the taxes herein imposed upon each agent or person shall be liable for and pay to the state the sum of Fifty Dollars ($50.00) for each policy written. Provided, that any insurance agent who has paid the tax required as a life insurance agent, shall be permitted to write health, accident and industrial insurance without the payment of additional tax.
SECTION 31. Section 83-17-1, Mississippi Code of 1972, is amended as follows:

83-17-1. Whenever used in this chapter, the following words shall have the meanings ascribed herein unless the context clearly indicates otherwise:

(a) "Agent" means an insurance producer as defined in this section.

(b) "Insurance solicitor" refers to and includes any person directly connected with and principally employed by and authorized by an insurance agent to solicit and negotiate or assist in any manner in the sale and issuance of policies or contracts of insurance solely on behalf of such agents, and no license shall be renewed for any solicitor unless it is conclusively shown that more than fifty percent (50%) of his total annual employment income for the preceding year is derived from commissions on insurance. The agent appointing such solicitor shall be responsible for the acts of the solicitor. Any violation of the insurance laws by the solicitor may be grounds for revocation of license of both the agent and the solicitor after proper hearing. The commission of any unlawful act by the solicitor shall be prima facie evidence that the agent had knowledge of such act.

(c) "Inactive agent" means an individual who is retired, disabled or has not obtained from the Commissioner of Insurance a current continuous certificate. An inactive agent shall not solicit new business or service existing businesses, but may receive renewal commissions.

(d) "Supervising general agent" refers to and includes any person, partnership, association or corporation having authority to serve as trustees, managers or administrators, except attorneys at law, for such licensed insurance companies or their insurers in the handling of insurance programs underwritten by
such licensed insurance companies, or in which they may be participating.

(e) "Excess risk" means all or any portion of an insurance risk or contract of annuity for which application is made to an agent and which exceeds the amount of insurance or annuity which will be provided by the insurer for which such agent is licensed.

(f) "Rejected risk" means an insurance risk or annuity contract for which application has been made to an agent and which insurance or annuity contract is declined by the insurer for which such agent is licensed.

(g) "Insurance producer" means a person required to be licensed under the laws of this state to sell, solicit or negotiate insurance.

(h) "Commissioner" means the Commissioner of Insurance of the State of Mississippi.

(i) "Controlled business" means policies of insurance to be issued to a producer, agent or solicitor or to his relatives, business associates, employers or employees, or in which they or either of them have an interest. No license shall be granted or renewed to any agent or producer until the applicant files an affidavit with the Commissioner of Insurance that the applicant shall in good faith engage in the insurance business as agent, producer or solicitor, and that he is not seeking a license for the purpose of acquiring or saving commissions, premiums or other valuable considerations on "controlled business." A violation of this paragraph shall be deemed to be probable if the commissioner finds that during any twelve-month period aggregate commissions or other compensations accruing in favor of the applicant with respect to his own interests or those of his family, relatives, employers, employees or business associates, as provided herein, have exceeded or will exceed thirty-five percent (35%) of the aggregate amount of commissions accruing to him as
agent or his agency during such period of time. Nothing herein
contained shall prohibit the licensing under a limited license as
to motor vehicle physical damage insurance, any person employed by
or associated with a motor vehicle sales agency with respect to
insurance on a motor vehicle sold, serviced or financed by it.
Whenever employment is terminated of any such person employed by
or associated with any such agency, the Commissioner of Insurance
shall be notified, and the license shall be cancelled immediately.
It is further provided that the provisions of this paragraph
likewise shall not apply with respect to sales of insurance by a
lender or its affiliate covering the insurable interest of the
lender.

SECTION 32. Section 83-17-251, Mississippi Code of 1972, is
amended as follows:

83-17-251. (1) Every individual seeking to be licensed as a
life, health and accident insurance producer in the State of
Mississippi, as a condition of issuance of an original license,
must furnish the Commissioner of Insurance certification on a form
prescribed by the commissioner that he or she has completed an
approved prelicensing course of study for the line of insurance
requested.

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

(3) Every individual seeking annual renewal of life, health
and accident licenses, or annual renewal of property and casualty
licenses, shall complete satisfactorily twelve (12) hours of study
in approved courses in his primary line of insurance during each
twelve-month period except the initially licensed year. The
individual may take an additional twelve (12) hours in his
secondary line of insurance.
The continuing educational requirements of this section shall not apply to:

(a) Any individual that is exempt from taking the written examination as provided in Section 83-17-39(1)(b), (c) and (e) of House Bill No. 658, 2001 Regular Session;

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

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

(d) Inactive agents as defined in Section 83-17-1.

SECTION 33. Section 83-31-37, Mississippi Code of 1972, is amended as follows:

83-31-37. Such mutual company shall comply with the provisions of any law applicable to any stock insurance companies effecting the same kind of insurance requiring that policies be countersigned and delivered through a licensed agent. This requirement shall not apply to any policy of such mutual company on which no commission shall be paid to any local agent. Such mutual company may insert, in any form of policy prescribed by the law of this state, such provisions or conditions required by its plan of insurance which are not inconsistent or in conflict with any law of this state. Such policy, in lieu of conforming to the language and form prescribed by such law, may conform thereto in substance, if such policy includes a provision or endorsement reciting that the policy shall be construed as if in the language and form prescribed by such law, and a copy of such policy and endorsement, if any, shall have been first filed with and shall not have been disapproved by the commissioner.

SECTION 34. Sections 83-17-9, 83-17-11, 83-17-15, 83-17-17, 83-17-23, 83-17-27, 83-17-29, 83-17-31, 83-17-33, 83-17-35,
SECTION 35. Sections 1 through 20 of this act shall be codified as a separate article within Chapter 17 of Title 83, Mississippi Code of 1972.

SECTION 36. This act shall take effect and be in force from and after January 1, 2002.