

By: Representative Stevens

To: Insurance

HOUSE BILL NO. 658
(As Sent to Governor)

1 AN ACT TO PROVIDE PROCEDURES FOR THE LICENSING OF INSURANCE
2 PRODUCERS; TO PROVIDE DEFINITIONS; TO PROVIDE FOR WRITTEN
3 EXAMINATIONS AND FEES FOR LICENSURE OF INSURANCE PRODUCERS; TO
4 PROVIDE CERTAIN EXEMPTIONS FROM THE WRITTEN EXAMINATION; TO
5 PROVIDE FOR TEMPORARY LICENSURE; TO PROVIDE FOR A HEARING BEFORE
6 THE INSURANCE COMMISSIONER FOR NONRENEWAL OR DENIAL OF LICENSE; TO
7 REQUIRE LICENSURE BEFORE A PERSON MAY ACCEPT A COMMISSION FOR
8 SELLING, SOLICITING OR NEGOTIATING INSURANCE IN THIS STATE; TO
9 PROVIDE CERTAIN IMMUNITIES; TO PROVIDE CERTAIN PENALTIES; TO
10 AUTHORIZE THE COMMISSIONER OF INSURANCE TO PROMULGATE REGULATIONS
11 TO CARRY OUT THE PURPOSES OF THIS ACT; TO CREATE SECTIONS
12 83-17-37, 83-17-39, 83-17-41, 83-17-43, 83-17-45 AND 83-17-47,
13 MISSISSIPPI CODE OF 1972, IN ORDER TO MOVE EXISTING LAW TO A
14 DIFFERENT ARTICLE; TO AMEND SECTIONS 27-15-85, 27-15-87, 27-15-89,
15 27-15-93, 83-17-1, 83-17-251 AND 83-31-37, MISSISSIPPI CODE OF
16 1972, IN CONFORMITY THERETO; TO REPEAL SECTIONS 83-17-9, 83-17-11,
17 83-17-15, 83-17-17, 83-17-23, 83-17-27, 83-17-29, 83-17-31,
18 83-17-33, 83-17-35, 83-17-101, 83-17-103, 83-17-105, 83-17-107,
19 83-17-109, 83-17-111, 83-17-113, 83-17-115, 83-17-117, 83-17-119,
20 83-17-121, 83-17-123, 83-17-125, 83-17-127, 83-17-129, 83-17-131,
21 83-17-133, 83-17-135, 83-17-201, 83-17-203, 83-17-205, 83-17-207,
22 83-17-209, 83-17-211, 83-17-213, 83-17-215, 83-17-217, 83-17-219,
23 83-17-221, 83-17-223, 83-17-301, 83-17-303, 83-17-305, 83-17-307,
24 83-17-309 AND 83-21-15, MISSISSIPPI CODE OF 1972, WHICH RELATE TO
25 THE LICENSING AND REGULATION OF INSURANCE AGENTS; AND FOR RELATED
26 PURPOSES.

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

28 SECTION 1. The purpose of this article is to provide the
29 qualifications and procedures required for the licensing of
30 insurance producers. This article does not apply to excess and
31 surplus lines agents and brokers licensed under Sections 83-21-17
32 through 83-21-31 except as provided in Section 8 and Section 14(3)
33 of this act, or to domestic title insurance companies and their
34 agents licensed under Sections 83-15-1 through 83-15-11, except as
35 provided in Section 13 of this act.

36 SECTION 2. The following words and phrases shall have the
37 meanings ascribed herein unless the context clearly indicates
38 otherwise:

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

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

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

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

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

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

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

60 (h) "Limited line credit insurance" includes credit
61 life, credit disability, credit property, credit unemployment,
62 involuntary unemployment, mortgage life, mortgage guaranty,
63 mortgage disability, guaranteed automobile protection (gap)
64 insurance and any other form of insurance offered in connection
65 with an extension of credit that is limited to partially or wholly
66 extinguishing that credit obligation that the commissioner
67 determines should be designated a form of limited line credit
68 insurance.

69 (i) "Limited line credit insurance producer" means a
70 person who sells, solicits or negotiates one or more forms of
71 limited line credit insurance coverage to individuals through a
72 master, corporate, group or individual policy.

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

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

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

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

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

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

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

97 (q) "Uniform business entity application" means the
98 current version of the NAIC uniform business entity application
99 for resident and nonresident business entities.

100 (r) "Uniform application" means the current version of
101 the NAIC uniform application for resident and nonresident producer
102 licensing.

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

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

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

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

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

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

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

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

132 producers and do not include the sale, solicitation or negotiation
133 of insurance;

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

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

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

157 (e) A person whose activities in this state are limited
158 to advertising without the intent to solicit insurance in this
159 state through communications in printed publications or other
160 forms of electronic mass media whose distribution is not limited
161 to residents of the state, if the person does not sell, solicit or
162 negotiate insurance that would insure risks residing, located or
163 to be performed in this state;

164 (f) A person who is not a resident of this state who
165 sells, solicits or negotiates a contract of insurance for
166 commercial property and casualty risks to an insured with risks
167 located in more than one (1) state insured under that contract, if
168 that person is otherwise licensed as an insurance producer to
169 sell, solicit or negotiate that insurance in the state where the
170 insured maintains its principal place of business and the contract
171 of insurance insures risks located in that state; or

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

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

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

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

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

195 SECTION 6. (1) A person applying for a resident insurance
196 producer license shall make application to the commissioner on the

197 uniform application and declare under penalty of refusal,
198 suspension or revocation of the license that the statements made
199 in the application are true, correct and complete to the best of
200 the individual's knowledge and belief. Before approving the
201 application, the commissioner shall find that the individual:

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

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

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

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

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

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

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

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

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

225 (4) Each insurer that sells, solicits or negotiates any form
226 of limited line credit insurance shall provide to each individual
227 whose duties include selling, soliciting or negotiating limited
228 line credit insurance a program of instruction that may be
229 approved by the commissioner.

230 SECTION 7. (1) Unless denied licensure under Section 11 of
231 this act, persons who have met the requirements of Sections 5 and
232 6 of this act, shall be issued an insurance producer license. An
233 insurance producer may receive qualification for a license in one
234 or more of the following lines of authority:

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

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

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

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

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

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

253 (g) Credit: limited line credit insurance.

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

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

260 (3) An individual insurance producer who allows his or her
261 license to lapse may, within twelve (12) months from the due date
262 of the renewal fee, reinstate the same license without the

263 necessity of passing a written examination. However, a penalty in
264 the amount of double the unpaid renewal fee shall be required for
265 any renewal fee received after the due date.

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

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

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

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

290 SECTION 8. (1) Unless denied licensure pursuant to Section
291 11 of this act, a nonresident person shall receive a nonresident
292 producer license if:

293 (a) The person is currently licensed as a resident and
294 is in good standing in his or her home state;

295 (b) The person has submitted the proper request for
296 licensure and has paid the fees required by Sections 27-15-87 and
297 27-15-93;

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

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

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

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

314 (4) Notwithstanding any other provision of this article, a
315 person licensed as a surplus lines producer in his or her home
316 state shall receive a nonresident surplus lines producer license
317 in accordance with subsection (1) of this section. Except as to
318 subsection (1) of this section, nothing in this section otherwise
319 amends or supercedes any provision of Sections 83-21-17 through
320 83-21-31.

321 (5) Notwithstanding any other provision of this article, a
322 person licensed as a limited line credit insurance or other type
323 of limited lines producer in his or her home state shall receive a
324 nonresident limited lines producer license in accordance with
325 subsection (1) of this section, granting the same scope of
326 authority as granted under the license issued by the producer's
327 home state. For the purposes of this subsection, limited line

328 insurance is any authority granted by the home state which
329 restricts the authority of the license to less than the total
330 authority prescribed in the associated major lines under Section
331 7(1)(a) through (f) of this act.

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

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

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

358 (a) To the surviving spouse or court-appointed personal
359 representative of a licensed insurance producer who dies or
360 becomes mentally or physically disabled to allow adequate time for

361 the sale of the insurance business owned by the producer or for
362 the recovery or return of the producer to the business or to
363 provide for the training and licensing of new personnel to operate
364 the producer's business.

365 (b) To a member or employee of a business entity
366 licensed as an insurance producer, upon the death or disability of
367 an individual designated in the business entity application or the
368 license;

369 (c) To the designee of a licensed insurance producer
370 entering active service in the Armed Forces of the United States
371 of America; or

372 (d) In any other circumstance where the commissioner
373 deems that the public interest will best be served by the issuance
374 of this license.

375 (2) The commissioner may by order limit the authority of any
376 temporary licensee in any way deemed necessary to protect insureds
377 and the public. The commissioner may require the temporary
378 licensee to have a suitable sponsor who is a licensed producer or
379 insurer and who assumes responsibility for all acts of the
380 temporary licensee and may impose other similar requirements
381 designed to protect insureds and the public. The commissioner may
382 by order revoke a temporary license if the interest of insureds or
383 the public are endangered. A temporary license may not continue
384 after the owner or the personal representative disposes of the
385 business.

386 SECTION 11. (1) The commissioner may place on probation,
387 suspend, revoke or refuse to issue or renew an insurance
388 producer's license or may levy a civil penalty in an amount not to
389 exceed One Thousand Dollars (\$1,000.00) per violation and such
390 penalty shall be deposited into the special fund of the State
391 Treasury designated as the "Insurance Department Fund" for any one
392 or more of the following causes:

393 (a) Providing incorrect, misleading, incomplete or
394 materially untrue information in the license application;
395 (b) Violating any insurance laws, or violating any
396 regulation, subpoena or order of the commissioner or of another
397 state's commissioner;
398 (c) Obtaining or attempting to obtain a license through
399 misrepresentation or fraud;
400 (d) Improperly withholding, misappropriating or
401 converting any monies or properties received in the course of
402 doing insurance business;
403 (e) Intentionally misrepresenting the terms of an
404 actual or proposed insurance contract or application for
405 insurance;
406 (f) Having been convicted of a felony;
407 (g) Having admitted or been found to have committed any
408 insurance unfair trade practice or fraud;
409 (h) Using fraudulent, coercive or dishonest practices
410 or demonstrating incompetence, untrustworthiness or financial
411 irresponsibility in the conduct of business in this state or
412 elsewhere;
413 (i) Having an insurance producer license, or its
414 equivalent, denied, suspended or revoked in any other state,
415 province, district or territory;
416 (j) Forging another's name to an application for
417 insurance or to any document related to an insurance transaction;
418 (k) Improperly using notes or any other reference
419 material to complete an examination for an insurance license;
420 (l) Knowingly accepting insurance business from an
421 individual who is not licensed;
422 (m) Failing to comply with an administrative or court
423 order imposing a child support obligation; or

424 (n) Failing to pay state income tax or comply with any
425 administrative or court order directing payment of state income
426 tax.

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

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

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

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

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

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

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

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

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

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

484 SECTION 13. (1) An insurance producer shall not act as an
485 agent of an insurer unless the insurance producer becomes an
486 appointed agent of that insurer. An insurance producer who is not
487 acting as an agent of a noninsurer is not required to become
488 appointed.

489 (2) To appoint a producer as its agent, the appointing
490 insurer shall file, in a format approved by the commissioner, a
491 notice of appointment within fifteen (15) days from the date the
492 agency contract is executed or the first insurance application is
493 submitted. An insurer may also elect to appoint a producer to all
494 or some insurers within the insurer's holding company system or
495 group by the filing of a single appointment request.

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

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

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

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

522 ineligible for a license if applicant has complied with the order
523 of the commissioner regarding such offense.

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

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

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

552 (4) (a) Within fifteen (15) days after making the
553 notification required by subsections (1), (2) and (3) of this
554 section, the insurer shall mail a copy of the notification to the

555 producer at his or her last known address. If the producer is
556 terminated for cause for any of the reasons listed in Section 11
557 of this section, the insurer shall provide a copy of the
558 notification to the producer at his or her last known address by
559 certified mail, return receipt requested, postage prepaid or by
560 overnight delivery using a nationally recognized carrier.

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

570 (5) (a) In the absence of actual malice, an insurer, the
571 authorized representative of the insurer, a producer, the
572 commissioner or an organization of which the commissioner is a
573 member and that compiles the information and makes it available to
574 other commissioners or regulatory or law enforcement agencies
575 shall not be subject to civil liability, and a civil cause of
576 action of any nature shall not arise against these entities or
577 their respective agents or employees, as a result of any statement
578 or information required by or provided under this section or any
579 information relating to any statement that may be requested in
580 writing by the commissioner from an insurer or producer or a
581 statement by a terminating insurer or producer to an insurer or
582 producer limited solely and exclusively to whether a termination
583 for cause under subsection (1) of this section was reported to the
584 commissioner if the propriety of any termination for cause under
585 subsection (1) of this section is certified in writing by an
586 officer or authorized representative of the insurer or producer
587 terminating the relationship.

588 (b) In any action brought against a person that may
589 have immunity under paragraph (a) of this subsection for making
590 any statement required by this section or providing any
591 information relating to any statement that may be requested by the
592 commissioner, the party bringing the action shall plead
593 specifically in any allegation that paragraph (a) of this
594 subsection does not apply because the person making the statement
595 or providing the information did so with actual malice.

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

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

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

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

619 (i) May share documents, materials or other
620 information, including the confidential and privileged documents,

621 materials or information subject to paragraph (a) of this
622 subsection, with other state, federal and international regulatory
623 agencies, with the National Association of Insurance
624 Commissioners, its affiliates or subsidiaries and with state,
625 federal and international law enforcement authorities, if the
626 recipient agrees to maintain the confidentiality and privileged
627 status of the document, material or other information;

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

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

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

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

652 (7) An insurer, the authorized representative of the insurer
653 or producer that fails to report as required under the provisions

654 of this section or that is found to have reported with actual
655 malice by a court of competent jurisdiction may, after notice and
656 hearing, have its license or certificate of authority suspended or
657 revoked and may be fined in accordance with all applicable
658 statutes.

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

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

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

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

683 SECTION 17. Any person aggrieved by any action or decision
684 of the Commissioner of Insurance under the provisions of this
685 article may appeal therefrom to the Circuit Court of the First
686 Judicial District of Hinds County by certiorari in the manner

687 provided by law. Such appeal shall be without supersedeas, except
688 that the court may grant supersedeas as otherwise provided by law
689 where the license is revoked. The court shall have the authority
690 and jurisdiction to hear the appeal and render its decision in
691 regard thereto in termtime or vacation.

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

700 SECTION 19. The commissioner may, in accordance with Section
701 25-43-1 et seq., promulgate reasonable regulations as are
702 necessary or proper to carry out the purposes of this article.

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

708 SECTION 21. The following provision shall be codified as
709 Section 83-17-37, Mississippi Code of 1972:

710 83-17-37. (1) Each license issued to a producer shall
711 expire on the mandated renewal date following the date of issue,
712 unless prior thereto it is revoked or suspended by the
713 commissioner.

714 (2) Each producer shall file an application for renewal of
715 license on the form and in the manner prescribed by the
716 commissioner for such purpose. Upon the filing of such
717 application for renewal of license and the payment of the required
718 fees, the current license shall continue to be in force until the
719 renewal license is issued by the commissioner or until the

720 commissioner has refused for cause to issue such renewal license,
721 as provided in Section 11 of House Bill No. 658, 2001 Regular
722 Session, and has given notice of such refusal in writing to the
723 producer.

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

726 83-17-39. (1) Each applicant for a license to act as a
727 producer within this state shall submit to a personal written
728 examination to determine his competence to act as a producer and
729 his familiarity with the pertinent provisions of the laws of this
730 state, and shall pass the same to the satisfaction of the
731 commissioner; except that no such written examination shall be
732 required of:

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

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

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

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

750 (e) An applicant who is an agent of a fraternal benefit
751 society exclusively;

752 (f) An applicant who is exempt from examination under
753 the provisions of Section 9 of House Bill No. 658, 2001 Regular
754 Session.

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

763 (a) Those desiring to write life insurance;

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

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

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

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

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

777 The rules and regulations of the commissioner, if
778 established, shall designate textbooks, manuals and other
779 materials to be studied by applicants in preparation for
780 examination in each classification designated by the commissioner
781 pursuant to this section. Such textbooks, manuals or other
782 materials may consist of matter available to applicants by
783 purchase from the publisher, or may consist of matter prepared at
784 the direction of the commissioner and distributed to applicants

785 upon request therefor and payment of the reasonable cost thereof.
786 If textbooks, manuals or other materials shall have been
787 designated or prepared by the commissioner pursuant to this
788 section, all examination questions shall be prepared from the
789 contents of such textbooks, manuals or other materials.

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

792 83-17-41. The commissioner may, from time to time, make
793 reasonable groupings into type, types or kinds of insurance that
794 may be lawfully written in this state, for the purpose of
795 prescribing reasonable written examinations for producer and
796 solicitor licenses for each group respectively, and for the
797 issuance of limited licenses. Any such licensed producer or
798 solicitor who shall attempt to write any type of business or seek
799 a brokerage commission on a type of business for which he is not
800 properly licensed and authorized shall, after investigation of all
801 circumstances and proper notice of hearing, be subject to hearing
802 for revocation or suspension of the license.

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

805 83-17-43. (1) In addition to all other license
806 requirements, examinations for qualifications and fees established
807 and imposed by law, all insurance solicitors shall file with the
808 Commissioner of Insurance, in a form to be prescribed by the
809 commissioner, an application for certificate of appointment as
810 solicitor, signed by an insurance producer who proposes to employ
811 such solicitor and signed and accepted by such solicitor, and
812 shall pay to the commissioner a fee of Two Dollars (\$2.00)
813 annually for the issuance of a certificate of appointment under
814 seal of his office, showing the name of such solicitor, the name
815 of an insurance producer or agency for which such individual is
816 licensed to solicit business, and that such insurance producer or
817 insurance agency is duly licensed. Such certificate of

818 appointment issued by the commissioner shall be cancelled by him
819 at any time upon request of the insurance producer or agency named
820 therein, and shall automatically expire and terminate at the time
821 that the solicitor's employment by, and connection with, the
822 producer or agency named on such certificate terminates.

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

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

832 83-17-45. (1) No producer or other persons shall, within
833 this state, solicit, procure, receive or forward applications for
834 insurance or annuities, or issue or deliver policies for, or in
835 any manner secure, help, or aid in the placing of any contract of
836 insurance or annuity for any person other than himself, directly
837 or indirectly, with any insurer not authorized to do business in
838 this state.

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

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

848 83-17-47. The Commissioner of Insurance shall have the power
849 to administer oaths and affirmations, issue subpoenas and order
850 the attendance and testimony of witnesses and the production of

851 papers, books and documents. Upon the failure of any person to
852 comply with any subpoena or order issued under the authority of
853 this section, the Commissioner of Insurance may invoke the aid of
854 any court of the state of general jurisdiction. The court
855 thereupon may order such person to comply with the requirements of
856 the subpoena or order to give evidence touching the matter in
857 question. Failure to obey the order of the court may be punished
858 by the court as a contempt thereof.

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

861 27-15-85. (1) Upon each incorporated insurance agency
862 licensed to represent fire, casualty, liability, fidelity, surety,
863 guaranty and inland marine insurance companies in municipalities
864 of Classes 1, 2, 3 and 4..... \$100.00.

865 Upon each such incorporated insurance agency in
866 municipalities of Classes 5, 6, 7 and elsewhere in the
867 state..... \$ 50.00.

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

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

881 (3) Upon each incorporated "supervising general agent" for
882 life, health and accident insurers as defined in Section
883 83-17-1..... \$100.00.

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

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

895 27-15-87. Upon each fire, casualty, liability, fidelity,
896 surety, guaranty and/or inland marine agent or solicitor when the
897 total commission of the agency is in excess of Three Thousand
898 Dollars (\$3,000.00) annually..... \$50.00.

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

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

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

915 At the time of the purchase of the license herein provided,
916 every person, firm, corporation or solicitor shall file an

917 affidavit with the Insurance Commissioner of the state stating the
918 amount of commissions earned by said agency (whether such agency
919 be conducted by a person, firm or corporation) during the past
920 year, and this affidavit shall be filed at least once each year,
921 and in the event that the commissioner has reason to believe that
922 such affidavit is incorrect, then in such event, said Insurance
923 Commissioner may refuse to accept said affidavit and demand
924 further proof as to the clarification of said person, firm or
925 corporation applying for said license. If the applicant for said
926 license was not engaged in the insurance business during the year
927 preceding the application for said license, then, in such event,
928 the affidavit shall show said fact, and the Insurance Commissioner
929 shall issue to said applicant a yearly license at and for the sum
930 of Twenty-five Dollars (\$25.00) as above provided.

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

933 27-15-89. (1) Upon each such unincorporated general agent
934 as defined in Section 83-17-1..... \$50.00.

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

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

943 (4) Upon each unincorporated "supervising general agent" for
944 life, health and accident insurers as defined in Section
945 83-17-1..... \$50.00.

946 The privilege licenses issued under this section to
947 "supervising general agents" shall not constitute authority to
948 solicit business within the State of Mississippi, and shall be
949 renewed annually at the time and in the manner prescribed by

950 Section 83-17-25 on application forms which shall be furnished by
951 the Commissioner of Insurance and shall show the name of the
952 insurance company or companies such "supervising general agent"
953 represents, and other additional information as may be required by
954 the Commissioner of Insurance.

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

957 27-15-93. (1) Upon each incorporated insurance agency
958 licensed to represent life, health or accident insurance
959 companies..... \$ 25.00.

960 The license issued to such incorporated agency shall specify
961 the type, types or kinds of insurance that such incorporated
962 agency is licensed and qualified to transact. Every person acting
963 as agent for any such agency shall qualify under the provisions of
964 House Bill No. 658, 2001 Regular Session; and no person shall be
965 exempt from the privilege tax placed on insurance agents by this
966 section by reason of the fact that he is a stockholder or officer
967 in any such incorporated agency, or by reason of the fact that he
968 represents such an agency, but every agent shall pay the privilege
969 tax herein imposed.

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

972 (3) Upon each life insurance agent engaged exclusively in
973 writing life insurance..... \$ 20.00.

974 And any life insurance company that knowingly issues a policy
975 where the application has been submitted to it by an agent or
976 other person who has not paid all the taxes herein imposed upon
977 each agent or person shall be liable for and pay to the state the
978 sum of Fifty Dollars (\$50.00) for each policy written.

979 Provided, that any insurance agent who has paid the tax
980 required as a life insurance agent, shall be permitted to write
981 health, accident and industrial insurance without the payment of
982 additional tax.

983 SECTION 31. Section 83-17-1, Mississippi Code of 1972, is
984 amended as follows:

985 83-17-1. Whenever used in this chapter, the following words
986 shall have the meanings ascribed herein unless the context clearly
987 indicates otherwise:

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

990 (b) "Insurance solicitor" refers to and includes any
991 person directly connected with and principally employed by and
992 authorized by an insurance agent to solicit and negotiate or
993 assist in any manner in the sale and issuance of policies or
994 contracts of insurance solely on behalf of such agents, and no
995 license shall be renewed for any solicitor unless it is
996 conclusively shown that more than fifty percent (50%) of his total
997 annual employment income for the preceding year is derived from
998 commissions on insurance. The agent appointing such solicitor
999 shall be responsible for the acts of the solicitor. Any violation
1000 of the insurance laws by the solicitor may be grounds for
1001 revocation of license of both the agent and the solicitor after
1002 proper hearing. The commission of any unlawful act by the
1003 solicitor shall be prima facie evidence that the agent had
1004 knowledge of such act.

1005 (c) "Inactive agent" means an individual who is
1006 retired, disabled or has not obtained from the Commissioner of
1007 Insurance a current continuous certificate. An inactive agent
1008 shall not solicit new business or service existing businesses, but
1009 may receive renewal commissions.

1010 (d) "Supervising general agent" refers to and includes
1011 any person, partnership, association or corporation having
1012 authority to serve as trustees, managers or administrators, except
1013 attorneys at law, for such licensed insurance companies or their
1014 insureds in the handling of insurance programs underwritten by

1015 such licensed insurance companies, or in which they may be
1016 participating.

1017 (e) "Excess risk" means all or any portion of an
1018 insurance risk or contract of annuity for which application is
1019 made to an agent and which exceeds the amount of insurance or
1020 annuity which will be provided by the insurer for which such agent
1021 is licensed.

1022 (f) "Rejected risk" means an insurance risk or annuity
1023 contract for which application has been made to an agent and which
1024 insurance or annuity contract is declined by the insurer for which
1025 such agent is licensed.

1026 (g) "Insurance producer" means a person required to be
1027 licensed under the laws of this state to sell, solicit or
1028 negotiate insurance.

1029 (h) "Commissioner" means the Commissioner of Insurance
1030 of the State of Mississippi.

1031 (i) "Controlled business" means policies of insurance
1032 to be issued to a producer, agent or solicitor or to his
1033 relatives, business associates, employers or employees, or in
1034 which they or either of them have an interest. No license shall
1035 be granted or renewed to any agent or producer until the applicant
1036 files an affidavit with the Commissioner of Insurance that the
1037 applicant shall in good faith engage in the insurance business as
1038 agent, producer or solicitor, and that he is not seeking a license
1039 for the purpose of acquiring or saving commissions, premiums or
1040 other valuable considerations on "controlled business." A
1041 violation of this paragraph shall be deemed to be probable if the
1042 commissioner finds that during any twelve-month period aggregate
1043 commissions or other compensations accruing in favor of the
1044 applicant with respect to his own interests or those of his
1045 family, relatives, employers, employees or business associates, as
1046 provided herein, have exceeded or will exceed thirty-five percent
1047 (35%) of the aggregate amount of commissions accruing to him as

1048 agent or his agency during such period of time. Nothing herein
1049 contained shall prohibit the licensing under a limited license as
1050 to motor vehicle physical damage insurance, any person employed by
1051 or associated with a motor vehicle sales agency with respect to
1052 insurance on a motor vehicle sold, serviced or financed by it.
1053 Whenever employment is terminated of any such person employed by
1054 or associated with any such agency, the Commissioner of Insurance
1055 shall be notified, and the license shall be cancelled immediately.
1056 It is further provided that the provisions of this paragraph
1057 likewise shall not apply with respect to sales of insurance by a
1058 lender or its affiliate covering the insurable interest of the
1059 lender.

1060 SECTION 32. Section 83-17-251, Mississippi Code of 1972, is
1061 amended as follows:

1062 83-17-251. (1) Every individual seeking to be licensed as a
1063 life, health and accident insurance producer in the State of
1064 Mississippi, as a condition of issuance of an original license,
1065 must furnish the Commissioner of Insurance certification on a form
1066 prescribed by the commissioner that he or she has completed an
1067 approved prelicensing course of study for the line of insurance
1068 requested.

1069 (2) The prelicensing course of study hours shall consist of
1070 no less than twenty-four (24) classroom hours for life and/or
1071 health/accident insurance or property and casualty insurance.
1072 Twelve (12) classroom hours are required on life only; and twelve
1073 (12) classroom hours are required for health/accident only.

1074 (3) Every individual seeking annual renewal of life, health
1075 and accident licenses, or annual renewal of property and casualty
1076 licenses, shall complete satisfactorily twelve (12) hours of study
1077 in approved courses in his primary line of insurance during each
1078 twelve-month period except the initially licensed year. The
1079 individual may take an additional twelve (12) hours in his
1080 secondary line of insurance.

1081 (4) The continuing educational requirements of this section
1082 shall not apply to:

1083 (a) Any individual that is exempt from taking the
1084 written examination as provided in Section 83-17-39(1)(b), (c) and
1085 (e) of House Bill No. 658, 2001 Regular Session;

1086 (b) Any individual that is licensed with a license
1087 limited to industrial life, industrial health and accident, small
1088 loan property, industrial fire and full-coverage auto;

1089 (c) A person not a resident of this state who meets the
1090 continuing educational requirement in the state in which such
1091 person resides and Mississippi has a reciprocal agreement with
1092 that state; or

1093 (d) Inactive agents as defined in Section 83-17-1.

1094 SECTION 33. Section 83-31-37, Mississippi Code of 1972, is
1095 amended as follows:

1096 83-31-37. Such mutual company shall comply with the
1097 provisions of any law applicable to any stock insurance companies
1098 effecting the same kind of insurance requiring that policies be
1099 countersigned and delivered through a licensed agent. This
1100 requirement shall not apply to any policy of such mutual company
1101 on which no commission shall be paid to any local agent. Such
1102 mutual company may insert, in any form of policy prescribed by the
1103 law of this state, such provisions or conditions required by its
1104 plan of insurance which are not inconsistent or in conflict with
1105 any law of this state. Such policy, in lieu of conforming to the
1106 language and form prescribed by such law, may conform thereto in
1107 substance, if such policy includes a provision or endorsement
1108 reciting that the policy shall be construed as if in the language
1109 and form prescribed by such law, and a copy of such policy and
1110 endorsement, if any, shall have been first filed with and shall
1111 not have been disapproved by the commissioner.

1112 SECTION 34. Sections 83-17-9, 83-17-11, 83-17-15, 83-17-17,
1113 83-17-23, 83-17-27, 83-17-29, 83-17-31, 83-17-33, 83-17-35,

1114 83-17-101, 83-17-103, 83-17-105, 83-17-107, 83-17-109, 83-17-111,
1115 83-17-113, 83-17-115, 83-17-117, 83-17-119, 83-17-121, 83-17-123,
1116 83-17-125, 83-17-127, 83-17-129, 83-17-131, 83-17-133, 83-17-135,
1117 83-17-201, 83-17-203, 83-17-205, 83-17-207, 83-17-209, 83-17-211,
1118 83-17-213, 83-17-215, 83-17-217, 83-17-219, 83-17-221, 83-17-223,
1119 83-17-301, 83-17-303, 83-17-305, 83-17-307, 83-17-309 and
1120 83-21-15, Mississippi Code of 1972, which relate to the licensing
1121 and regulation of insurance agents, are hereby repealed.

1122 SECTION 35. Sections 1 through 20 of this act shall be
1123 codified as a separate article within Chapter 17 of Title 83,
1124 Mississippi Code of 1972.

1125 SECTION 36. This act shall take effect and be in force from
1126 and after January 1, 2002.