HOUSE BILL NO. 1217

AN ACT TO AMEND SECTION 81-18-5, MISSISSIPPI CODE OF 1972, TO PROVIDE AN EXEMPTION FOR MANUFACTURED HOUSING RETAIL SALES COMPANIES OR FOR SALES PERSONS THAT HAVE A DEALER'S LICENSE ISSUED UNDER THE UNIFORM STANDARDS CODE FOR FACTORY-BUILT HOMES LAW FROM HAVING TO COMPLY WITH THE PROVISIONS OF THE MORTGAGE CONSUMER PROTECTION ACT; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 81-18-5, Mississippi Code of 1972, is amended as follows:

81-18-5. The following persons are not subject to the provisions of this chapter, unless otherwise provided in this chapter:

(a) Any person authorized to engage in business as a bank holding company, or any subsidiary thereof; or any person authorized to engage in business as a financial holding company, bank, credit card bank, savings bank, savings institution, savings and loan association, building and loan association, trust company or credit union under the laws of the United States, any state or territory of the United States, or the District of Columbia, or any subsidiary or affiliate thereof.

(b) Approved mortgagees, sellers, servicers or issuers of the United States Department of Housing and Urban Development, the Federal Housing Administration, the Veterans Administration, the Federal National Mortgage Association (FNMA or "Fannie Mae"), the Federal Home Mortgage Company (FHLMC or "Freddie Mac"), the Government National Mortgage Association (GNMA or "Ginnie Mae"), when the mortgagees have been approved as a seller, servicer, mortgagee or issuer or when they have satisfied requirements to
qualify for automatic authority; however, if these
mortgagees/lenders close or fund any other type of mortgage loans
not subject to examination or review by any of the above agencies,
they will be subject to Sections 81-18-11, 81-18-21, 81-18-27,
81-18-35 and 81-18-43 as it pertains to those loans, unless
otherwise exempted under paragraph (a) of this section.

(c) Any lender holding a license under the Small Loan
Regulatory Law (Section 75-67-101 et seq.), or any subsidiary or
affiliate thereof, and making real estate loans under that law are
exempt from this chapter. However, those lenders holding a
license under the Small Loan Regulatory Law and making real estate
loans outside that law shall be subject to the entire provisions
of this chapter, unless otherwise exempted under paragraph (a) of
this section.

(d) Any person who funds a mortgage loan which has been
originated and processed by a licensee, by a mortgage company
licensed under this chapter or by a person who is exempt under
this section and who meets all of the following:

(i) Does not maintain a place of business in this
state in connection with funding mortgage loans;

(ii) Does not directly solicit borrowers in this
state for the purpose of making mortgage loans; and

(iii) Does not participate in the negotiation of
mortgage loans.

(e) Any attorney licensed to practice law in
Mississippi who provides mortgage loan services incidental to the
practice of law and who is not a principal of a mortgage company
as defined under this chapter.

(f) A real estate company or licensed real estate
salesperson or broker who is actively engaged in the real estate
business and who does not receive any fee, commission, kickback,
rebate or other payment for directly or indirectly negotiating,
placing or finding a mortgage for others.
(g) A manufactured housing retail sales company or sales person holding a dealer's license under the Uniform Standards Code for Factory-Built Homes Law or their employee who is actively engaged in the sale of manufactured housing and real estate who does not receive any fee, commission, kickback, rebate or other payment for directly or indirectly negotiating, placing or finding a mortgage for other.

(h) Any person performing any act relating to mortgage loans under order of any court.

(i) Any natural person, or the estate of or trust created by a natural person, making a mortgage loan with his or her own funds for his or her own investment, including but not limited to, those natural persons, or the estates of or trusts created by the natural person, who makes a purchase money mortgage or financing sales of his or her own property. Any person who enters into more than five (5) such investments or sales in any twelve-month period is not exempt from being licensed under this chapter.

(j) Any natural person who purchases mortgage loans from a licensed mortgage company solely as an investment and who is not in the business of making or servicing mortgage loans.

(k) Any person who makes a mortgage loan to his or her employee as an employment benefit.

(l) The United States of America, the State of Mississippi or any other state, and any agency, division or corporate instrumentality thereof including, but not limited to, the Mississippi Home Corporation, Rural Economic Community Development (RECD), Habitat for Humanity, the Federal National Mortgage Association (FNMA), the Federal Home Loan Mortgage Company (FHLMC), the Government National Mortgage Association (GNMA), the United States Department of Housing and Urban Development (HUD), the Federal Housing Administration (FHA), the Department of Veterans Affairs (VA), the Farmers Home...
ST: Mortgage Consumer Protection Act; provide exemptions for certain companies and sales persons.

Administration (FmHA), and the Federal Land Banks and Production Credit Associations.

(m) Government sponsored nonprofit corporations making mortgage loans to promote home ownership or home improvements for the disadvantaged.

(n) A natural person who is an employee or an exclusive agent of a licensed mortgage company or any person exempted from the licensing requirements of this chapter when acting within the scope of employment or exclusive agency with the licensee or exempted person.

(o) Employees or exclusive agents serving as loan originators for licensed mortgage companies as defined under Section 81-18-3 are exempt from the licensing requirements of this chapter but shall register with the department as a loan originator. Any natural person required to register under this paragraph (o) shall register initially with the department and thereafter file an application for renewal of registration with the department on or before August 31 of each year providing the department with such information as the department may prescribe by regulation, including, but not limited to, the business addresses where the person engages in any business activities covered by this chapter and a telephone number that customers may use to contact the person. This initial registration of a loan originator shall be accompanied by a fee of One Hundred Dollars ($100.00). Annual renewals of this registration shall require a fee of Fifty Dollars ($50.00). No person required to register under this paragraph (o) shall transact business in this state directly or indirectly as a mortgage company or mortgage lender unless that person is registered with the department.

SECTION 2. This act shall take effect and be in force from and after July 1, 2001.