

By: Representative Rogers

To: Banks and Banking

HOUSE BILL NO. 1217

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

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

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

10 81-18-5. The following persons are not subject to the  
11 provisions of this chapter, unless otherwise provided in this  
12 chapter:

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

21 (b) Approved mortgagees, sellers, servicers or issuers  
22 of the United States Department of Housing and Urban Development,  
23 the Federal Housing Administration, the Veterans Administration,  
24 the Federal National Mortgage Association (FNMA or "Fannie Mae"),  
25 the Federal Home Mortgage Company (FHLMC or "Freddie Mac"), the  
26 Government National Mortgage Association (GNMA or "Ginnie Mae"),  
27 when the mortgagees have been approved as a seller, servicer,  
28 mortgagee or issuer or when they have satisfied requirements to

29 qualify for automatic authority; however, if these  
30 mortgagees/lenders close or fund any other type of mortgage loans  
31 not subject to examination or review by any of the above agencies,  
32 they will be subject to Sections 81-18-11, 81-18-21, 81-18-27,  
33 81-18-35 and 81-18-43 as it pertains to those loans, unless  
34 otherwise exempted under paragraph (a) of this section.

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

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

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

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

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

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

57 (f) A real estate company or licensed real estate  
58 salesperson or broker who is actively engaged in the real estate  
59 business and who does not receive any fee, commission, kickback,  
60 rebate or other payment for directly or indirectly negotiating,  
61 placing or finding a mortgage for others.

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

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

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

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

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

85           (l) The United States of America, the State of  
86 Mississippi or any other state, and any agency, division or  
87 corporate instrumentality thereof including, but not limited to,  
88 the Mississippi Home Corporation, Rural Economic Community  
89 Development (RECD), Habitat for Humanity, the Federal National  
90 Mortgage Association (FNMA), the Federal Home Loan Mortgage  
91 Company (FHLMC), the Government National Mortgage Association  
92 (GNMA), the United States Department of Housing and Urban  
93 Development (HUD), the Federal Housing Administration (FHA), the  
94 Department of Veterans Affairs (VA), the Farmers Home

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

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

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

105           (o) Employees or exclusive agents serving as loan  
106 originators for licensed mortgage companies as defined under  
107 Section 81-18-3 are exempt from the licensing requirements of this  
108 chapter but shall register with the department as a loan  
109 originator. Any natural person required to register under this  
110 paragraph (o) shall register initially with the department and  
111 thereafter file an application for renewal of registration with  
112 the department on or before August 31 of each year providing the  
113 department with such information as the department may prescribe  
114 by regulation, including, but not limited to, the business  
115 addresses where the person engages in any business activities  
116 covered by this chapter and a telephone number that customers may  
117 use to contact the person. This initial registration of a loan  
118 originator shall be accompanied by a fee of One Hundred Dollars  
119 (\$100.00). Annual renewals of this registration shall require a  
120 fee of Fifty Dollars (\$50.00). No person required to register  
121 under this paragraph (o) shall transact business in this state  
122 directly or indirectly as a mortgage company or mortgage lender  
123 unless that person is registered with the department.

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