

By: Representative Ketchings

To: Insurance

HOUSE BILL NO. 1393

1 AN ACT TO AMEND SECTION 83-17-203, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT THE DEFINITION OF A "PERSON" ACTING AS AN
3 INSURANCE AGENT SHALL INCLUDE ANY INDIVIDUAL, PARTNERSHIP OR
4 CORPORATION INCORPORATED UNDER THE MISSISSIPPI LIMITED LIABILITY
5 COMPANY ACT; AND FOR RELATED PURPOSES.

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

7 SECTION 1. Section 83-17-203, Mississippi Code of 1972, is
8 amended as follows:

9 83-17-203. The terms "agent" and "solicitor" as used in this
10 article refer to and include all persons, residents of this state,
11 engaged in any of the activities enumerated in Section 83-17-201,
12 but do not include: (a) persons employed by insurance agents or
13 agencies or companies solely for the performance of clerical,
14 stenographic, and similar office duties; or (b) the supervising
15 general, state, special agents or others similarly employed by a
16 supervising general agent or insurance company or carrier, neither
17 of whom shall be eligible to apply for or secure a certificate of
18 authority or license as a resident countersigning agent as defined
19 herein or in other provisions of the insurance laws of this state;
20 and said "supervising general, state, special agents" as used in
21 this article refer to and include all persons, firms,
22 partnerships, and corporations having authority to appoint or
23 supervise resident local agents in this state on behalf of
24 insurance companies; but nothing contained in this paragraph (b)
25 shall prohibit the licensing as an agent of a person appointed to
26 act as agent for a company operating through agents who represent
27 only one (1) company or group of companies under the same control
28 or management; or (c) the attorney-in-fact or the traveling

29 salaried representative of a reciprocal insurance exchange; the
30 term "attorney-in-fact" or the "traveling salaried representative"
31 as used in this article refers to and includes all persons, not
32 otherwise licensed under the provisions of this article, who
33 represent or are employed by any underwriter, association, or
34 reciprocal insurance exchange writing policies in Mississippi
35 other than through resident agents, who in any manner solicit
36 business on behalf of such underwriters, associations, or
37 reciprocal insurance exchanges. It is expressly provided,
38 however, that this section shall not prevent the licensing of any
39 person now licensed as an agent who would, but for the provisions
40 of paragraph (b) herein be eligible for such license; provided
41 further, a local agent operating as a general agent may be
42 licensed in such dual capacity so long as the general agency is
43 operated in connection with a local agency, or where the owners or
44 majority of the stockholders have a substantial interest in such
45 local and general agency.

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

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

62 (50%). The agent appointing such solicitor shall be responsible
63 for the acts of the solicitor. Any violation of the insurance
64 laws by the solicitor may be grounds for revocation of license of
65 both the agent and the solicitor after proper hearing. The
66 commission of any unlawful act by the solicitor shall be prima
67 facie evidence that the agent had knowledge of such act.

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

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

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

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