HOUSE BILL NO. 1393

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

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

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

83-17-203. The terms "agent" and "solicitor" as used in this
article refer to and include all persons, residents of this state,
engaged in any of the activities enumerated in Section 83-17-201,
but do not include: (a) persons employed by insurance agents or
agencies or companies solely for the performance of clerical,
stenographic, and similar office duties; or (b) the supervising
general, state, special agents or others similarly employed by a
supervising general agent or insurance company or carrier, neither
of whom shall be eligible to apply for or secure a certificate of
authority or license as a resident countersigning agent as defined
herein or in other provisions of the insurance laws of this state;
and said "supervising general, state, special agents" as used in
this article refer to and include all persons, firms,
partnerships, and corporations having authority to appoint or
supervise resident local agents in this state on behalf of
insurance companies; but nothing contained in this paragraph (b)
shall prohibit the licensing as an agent of a person appointed to
act as agent for a company operating through agents who represent
only one (1) company or group of companies under the same control
or management; or (c) the attorney-in-fact or the traveling
salaried representative of a reciprocal insurance exchange; the
term "attorney-in-fact" or the "traveling salaried representative"
as used in this article refers to and includes all persons, not
otherwise licensed under the provisions of this article, who
represent or are employed by any underwriter, association, or
reciprocal insurance exchange writing policies in Mississippi
other than through resident agents, who in any manner solicit
business on behalf of such underwriters, associations, or
reciprocal insurance exchanges. It is expressly provided,
however, that this section shall not prevent the licensing of any
person now licensed as an agent who would, but for the provisions
of paragraph (b) herein be eligible for such license; provided
further, a local agent operating as a general agent may be
licensed in such dual capacity so long as the general agency is
operated in connection with a local agency, or where the owners or
majority of the stockholders have a substantial interest in such
local and general agency.

The term "inactive agent" shall mean 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 business, but
may receive renewal commissions.

The term "insurance solicitor" as used in this article refers
to and includes any person, a resident of this state, 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; and for
the purposes of this article, life, accident and health insurance
commissions shall be included in calculating said fifty percent.
(50%). 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.

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

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

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

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