AN ACT TO PROVIDE PROCEDURES FOR THE LICENSING OF INSURANCE PRODUCERS; TO PROVIDE DEFINITIONS; TO PROVIDE FOR WRITTEN EXAMINATIONS AND FEES FOR LICENSURE OF INSURANCE PRODUCERS; TO PROVIDE CERTAIN EXEMPTIONS FROM THE WRITTEN EXAMINATION; TO PROVIDE FOR TEMPORARY LICENSURE; TO PROVIDE FOR A HEARING BEFORE THE INSURANCE COMMISSIONER FOR NONRENEWAL OR DENIAL OF LICENSE; TO REQUIRE LICENSURE BEFORE A PERSON MAY ACCEPT A COMMISSION FOR SELLING, SOLICITING OR NEGOTIATING INSURANCE IN THIS STATE; TO PROVIDE CERTAIN IMMUNITIES; TO PROVIDE CERTAIN PENALTIES; TO AUTHORIZE THE COMMISSIONER OF INSURANCE TO PROMULGATE REGULATIONS TO CARRY OUT THE PURPOSES OF THIS ACT; TO AMEND SECTION 83-17-205, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT AN APPLICANT FOR A LICENSE AS AN INSURANCE AGENT MUST BE AT LEAST 18 YEARS OF AGE RATHER THAN 21 YEARS OF AGE; TO AMEND SECTIONS 83-17-1, 83-17-101 AND 83-17-203, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

SECTION 1. The purpose of this act is to provide the qualifications and procedures required for the licensing of insurance producers. This act does not apply to excess and surplus lines agents and brokers licensed under Sections 83-21-1 through 83-21-31 except as provided in Section 8 and Section 14(3) of this act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 3. A person shall not sell, solicit or negotiate insurance in this state for any class or classes of insurance unless the person is licensed for that line of authority in accordance with this act.

SECTION 4. (1) Nothing in this act shall be construed to require an insurer to obtain an insurance producer license. In this section, the term "insurer" does not include an insurer's officers, directors, employees, subsidiaries or affiliates.
(2) A license as an insurance producer shall not be required of the following:

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

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

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

(iii) The officer, director or employee is acting in the capacity of a special agent or agency supervisor assisting insurance producers where the person's activities are limited to providing technical advice and assistance to licensed insurance producers and do not include the sale, solicitation or negotiation of insurance;

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

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

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

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

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

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

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

(2) The commissioner may make arrangements, including
contracting with an outside testing service, for administering
examinations and collecting the nonrefundable fee set forth in
Sections 83-17-107 and 83-17-209.

(3) Each individual applying for an examination shall remit
a nonrefundable fee as prescribed by the commissioner as set forth
in Sections 83-17-107 and 83-17-209.

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

SECTION 6. (1) A person applying for a resident insurance
producer license shall make application to the commissioner on the
uniform application and declare under penalty of refusal,
suspension or revocation of the license that the statements made
in the application are true, correct and complete to the best of
the individual's knowledge and belief. Before approving the
application, the commissioner shall find that the individual:

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

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

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

(d) Has paid the fees set forth in Sections 27-15-87
and 27-15-93; and
(e) Has successfully passed the examinations for the lines of authority for which the person has applied.

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

(a) The business entity has paid the fees set forth in Sections 27-15-85 and 27-15-93; and
(b) The business entity has designated a licensed producer responsible for the business entity's compliance with the insurance laws, rules and regulations of this state.

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

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

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

(a) Life: insurance coverage on human lives including benefits of endowment and annuities and may include benefits in the event of death or dismemberment by accident and benefits for disability income.
(b) Accident and health or sickness: insurance coverage for sickness, bodily injury or accidental death and may include benefits for disability income.
(c) Property: insurance coverage for the direct or consequential loss or damage to property of every kind.
(d) Casualty: insurance coverage against legal liability, including that for death, injury or disability or damage to real or personal property.
(e) Variable life and variable annuity products: insurance coverage provided under variable life insurance contracts and variable annuities.
(f) Personal lines: property and casualty insurance coverage sold to individuals and families for primarily noncommercial purposes.
(g) Credit: limited line credit insurance.
(h) Any other line of insurance permitted under state laws or regulations.

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

(3) An individual insurance producer who allows his or her license to lapse may, within twelve (12) months from the due date of the renewal fee, reinstate the same license without the necessity of passing a written examination. However, a penalty in the amount of double the unpaid renewal fee shall be required for any renewal fee received after the due date.

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

(5) The license shall contain the licensee's name, address, personal identification number and the date of issuance, the lines of authority, the expiration date and any other information the commissioner deems necessary.
(6) Licensees shall inform the commissioner by any means acceptable to the commissioner of a change of address within thirty (30) days of the change. Failure to timely inform the commissioner of a change in legal name or address shall result in a penalty under Sections 83-17-123 and 83-17-221.

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

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

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

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

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

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

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

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

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

(5) Notwithstanding any other provision of this act, a person licensed as a limited line credit insurance or other type of limited lines producer in his or her home state shall receive a nonresident limited lines producer license in accordance with subsection (1) of this section, granting the same scope of authority as granted under the license issued by the producer's home state. For the purposes of this subsection, limited line insurance is any authority granted by the home state which restricts the authority of the license to less than the total authority prescribed in the associated major lines under Section 7(1)(a) through (f) of this act.

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

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

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

(a) To the surviving spouse or court-appointed personal representative of a licensed insurance producer who dies or becomes mentally or physically disabled to allow adequate time for the sale of the insurance business owned by the producer or for the recovery or return of the producer to the business or to provide for the training and licensing of new personnel to operate the producer's business.

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

(c) To the designee of a licensed insurance producer entering active service in the armed forces of the United States of America; or

(d) In any other circumstance where the commissioner deems that the public interest will best be served by the issuance of this license.
(2) The commissioner may by order limit the authority of any temporary licensee in any way deemed necessary to protect insureds and the public. The commissioner may require the temporary licensee to have a suitable sponsor who is a licensed producer or insurer and who assumes responsibility for all acts of the temporary licensee and may impose other similar requirements designed to protect insureds and the public. The commissioner may by order revoke a temporary license if the interest of insureds or the public are endangered. A temporary license may not continue after the owner or the personal representative disposes of the business.

SECTION 11. (1) The commissioner may place on probation, suspend, revoke or refuse to issue or renew an insurance producer's license or may levy a civil penalty in accordance with Sections 83-17-123 and 83-17-221 or any combination of actions for any one or more of the following causes:

(a) Providing incorrect, misleading, incomplete or materially untrue information in the license application;

(b) Violating any insurance laws, or violating any regulation, subpoena or order of the commissioner or of another state's commissioner;

(c) Obtaining or attempting to obtain a license through misrepresentation or fraud;

(d) Improperly withholding, misappropriating or converting any monies or properties received in the course of doing insurance business;

(e) Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance;

(f) Having been convicted of a felony;

(g) Having admitted or been found to have committed any insurance unfair trade practice or fraud;
(h) Using fraudulent, coercive or dishonest practices or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere;

(i) Having an insurance producer license, or its equivalent, denied, suspended or revoked in any other state, province, district or territory;

(j) Forging another's name to an application for insurance or to any document related to an insurance transaction;

(k) Improperly using notes or any other reference material to complete an examination for an insurance license;

(l) Knowingly accepting insurance business from an individual who is not licensed;

(m) Failing to comply with an administrative or court order imposing a child support obligation; or

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

(2) If the action by the commissioner is to nonrenew or to deny an application for a license, the commissioner shall notify the applicant or licensee and advise, in writing, the applicant or licensee of the reason for the denial or nonrenewal of the applicant's or licensee's license. The applicant or licensee may make written demand upon the commissioner within ten (10) days for a hearing before the commissioner to determine the reasonableness of the commissioner's action. The hearing shall be held within thirty (30) days and shall be held in accordance with Sections 83-17-123 and 83-17-221.

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

(4) In addition to or in lieu of any applicable denial,
suspension or revocation of a license, a person may, after
hearing, be subject to a civil fine according to Sections
83-17-123, 83-17-221 and any other applicable statutes.

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

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

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

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

(4) An insurer or insurance producer may pay or assign
commissions, service fees, brokerages or other valuable
consideration to an insurance agency or to persons who do not
sell, solicit or negotiate insurance in this state, unless the
payment would violate Section 83-17-7 or any other applicable
provision of Title 83, Mississippi Code of 1972.
SECTION 13.  (1) An insurance producer shall not act as an agent of an insurer unless the insurance producer becomes an appointed agent of that insurer. An insurance producer who is not acting as an agent of a noninsurer is not required to become appointed.

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

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

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

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

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

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

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

(4) (a) Within fifteen (15) days after making the notification required by subsections (1), (2) and (3) of this section, the insurer shall mail a copy of the notification to the producer at his or her last known address. If the producer is terminated for cause for any of the reasons listed in Section 11 of this section, the insurer shall provide a copy of the notification to the producer at his or her last known address by certified mail, return receipt requested, postage prepaid or by overnight delivery using a nationally recognized carrier.

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

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

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

(c) Paragraph (a) or (b) of this subsection shall not
abrogate or modify any existing statutory or common law privileges
or immunities.
(6) (a) Any documents, materials or other information in
the control or possession of the department of insurance that is
furnished by an insurer, producer or an employee or agent thereof
acting on behalf of the insurer or producer or obtained by the
commissioner in an investigation under this section shall be
confidential by law and privileged, shall not be subject to the
Public Records Act, shall not be subject to subpoena and shall not
be subject to discovery or admissible in evidence in any private
civil action. However, the commissioner is authorized to use the
documents, materials or other information in the furtherance of
any regulatory or legal action brought as a part of the
commissioner's duties.

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

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

   (i) May share documents, materials or other
information, including the confidential and privileged documents,
materials or information subject to paragraph (a) of this
subsection, with other state, federal and international regulatory
agencies, with the National Association of Insurance
Commissioners, its affiliates or subsidiaries and with state,
federal and international law enforcement authorities, if the
recipient agrees to maintain the confidentiality and privileged
status of the document, material or other information;

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

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

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

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

(7) An insurer, the authorized representative of the insurer
or producer that fails to report as required under the provisions
of this section or that is found to have reported with actual
malice by a court of competent jurisdiction may, after notice and
hearing, have its license or certificate of authority suspended or
revoked and may be fined in accordance with all applicable
statutes.

SECTION 15. (1) The commissioner shall waive any
requirements for a nonresident license applicant with a valid
license from his or her home state, except the requirements
imposed by Section 8 of this act, if the applicant's home state
awards nonresident licenses to residents of this state on the same
basis.
(2) A nonresident producer's satisfaction of his or her home state's continuing education requirements for licensed insurance producers shall constitute satisfaction of this state's continuing education requirements if the nonresident producer's home state recognizes the satisfaction of its continuing education requirements imposed upon producers from this state on the same basis.

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

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

SECTION 17. The commissioner may, in accordance with Section 25-43-1 et seq., promulgate reasonable regulations as are necessary or proper to carry out the purposes of this act.

SECTION 18. If any provisions of this act, or the application of a provision to any person or circumstances, shall be held invalid, the remainder of the act, and the application of the provision to persons or circumstances other than those to which it is held invalid, shall not be affected.

SECTION 19. Section 83-17-1, Mississippi Code of 1972, is amended as follows:

83-17-1. Every person, including those required to be licensed as a producer, who solicits insurance on behalf of any insurance company, or who takes or transmits, other than for himself, an application for insurance or a policy of insurance, or who advertises or otherwise gives notice that he will receive or
transmit the same, or who shall receive or deliver a policy of
insurance of any such company, or who shall examine or inspect any
risk, or receive, collect, or transmit any premium of insurance,
or make or forward a diagram of any building, or do or perform any
other act or thing in the making or consummation of any contract
of insurance for or with any such insurance company, other than
for himself, or who shall examine into or adjust or aid in
adjusting any loss for or on behalf of any such insurance company,
whether any of such acts shall be done at the instance or request
or by the employment of the insurance company, or of or by any
broker or other person, shall be held to be the agent of the
company for which the act is done or the risk is taken as to all
the duties and liabilities imposed by law, whatever conditions or
stipulations may be contained in the policy or contract. The term
"agent" shall also include all creditors whose officers, employees
or legal representatives are authorized to act in any manner,
directly or indirectly, in the solicitation of, negotiation for,
or procurement or making of a contract of property insurance,
under a small loan property insurance license, where such
insurance coverage is written on collateral in which the creditor
has an insurable interest. As used herein, the term "credit
property insurance" means insurance on personal property or
household goods pursuant to or in connection with a specific loan
or other credit transactions, including lease payments and
residual, which protects the lender or the borrower from damage or
destruction to such personal property or household goods pledged
as collateral for the loan. Such person knowingly procuring, by
fraudulent representations, payment or the obligation for the
payment of a premium of insurance shall be punished by a fine of
not less than One Hundred Dollars ($100.00) nor more than Five
Hundred Dollars ($500.00), or be imprisoned for not more than one
(1) year.
SECTION 20. Section 83-17-101, Mississippi Code of 1972, is amended as follows:

83-17-101. Whenever used in this article, certain terms shall be defined as follows:

(a) The term "agent" shall include all individuals, partnerships, corporations, and all those required to be licensed as producers who act in any manner, directly or indirectly, as such in the solicitation of, negotiation for, or procurement or making of a contract of life, health or accident insurance, or making of an annuity contract, and includes hospital service association agents; except that the term "agent" shall not include any regular salaried officer or employee of a licensed insurer or of a licensed insurance agent who does not solicit or accept from the public applications for any such contract. A regular salaried officer or employee of an insurer authorized to do business in this state shall not be deemed to be an "agent" by reason of rendering assistance to or on behalf of a licensed insurance agent, provided that such salaried officer or employee devotes substantially all of his time to activities other than the solicitation of applications for life, health or accident insurance or annuity contracts and receives no commission or other compensation directly dependent upon the amount of business obtained. The possessor of an insurable interest in any risk or subject of insurance shall not be deemed an agent by reason of procuring or maintaining, or agreeing to procure or maintain, insurance extending to such interests, together with the interest or interests of others in such risk or subject of insurance, however the cost may be borne.

(b) 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 "supervising general agent" as used in this article refers to and includes any person, partnership, association or corporation, having authority to serve as trustees, managers or administrators, except attorneys at law, for such licensed insurance companies or their insureds in the handling of insurance programs underwritten by such licensed insurance companies, or in which they may be participating.

The term "insurance contract" shall mean any contract or policy affecting life, health or accident insurance or any annuity contract on behalf of any company or insurer engaged in the business of writing life, health or accident insurance or annuity contracts.

The term "excess risk" shall mean all or any portion of a life, health or accident insurance risk or contract of annuity for which application is made to an agent and which exceeds the amount of insurance or annuity which will be provided by the insurer for which such agent is licensed.

The term "rejected risk" shall mean a life, health or accident insurance risk or annuity contract for which application has been made to an agent and which insurance or annuity contract is declined by the insurer for which such agent is licensed.

The term "commissioner" shall mean the Commissioner of Insurance of the State of Mississippi.

The terms "company" and "insurer" shall mean a corporation, association, hospital and/or medical service association, exchange, order or society writing life, health and accident and/or hospital insurance or annuity contracts, but shall not include fraternal societies as defined in Section 83-29-1.

The term "person" shall mean any individual,
the Mississippi Limited Liability Company Act, except as otherwise limited by Section 83-17-105.

SECTION 21. 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, and all those required to be licensed as producers engaged in any of the activities enumerated in Section 83-17-201, but do not include (1) persons employed by insurance agents or agencies or companies solely for the performance of clerical, stenographic, and similar office duties; or (2) 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 subsection (2) 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 (3) 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 subsection (2) hereof 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.

SECTION 22. Section 83-17-205, Mississippi Code of 1972, is
amended as follows:

83-17-205. (1) Before the issuance of a license or
certificate of authority under the provisions of this article, the
applicant, who shall be a natural person, resident of this state,
at least eighteen (18) years of age, and the company or companies
which the applicant proposes to represent shall file with the
commissioner evidence in such form as the commissioner shall have
prescribed, showing that the applicant is qualified, fit and
trustworthy to act as an agent and to solicit the kind or kinds of
insurance for which a license is requested; and the applicant
shall submit evidence in such form as may be required by the
commissioner of his intent to act in good faith as an agent and
that he is not seeking a license for the purpose of acquiring or
saving commissions, premiums or other valuable considerations on
policies of insurance to be issued to himself or to his relatives,
business associates, employers or employees, or in which they or
either of them have an interest. In the event the applicant has
not been previously licensed within the last two (2) years as an
agent for the kind or kinds of insurance for which a license is
requested, the commissioner shall, as a test of the applicant's
knowledge and other qualifications provided for herein, require
that the applicant submit to a written examination approved by the
commissioner which shall cover the type of license desired,
whether the same be a general license to apply to all lines or a
limited license applicable to grouping by type, types or kinds as
set out hereinafter. Any license issued under this article shall
state the kind or kinds of insurance which the agent is authorized
to write.

(2) In addition to requirements set out in subsection (1) of
this section, the commissioner shall require such company
requesting appointment of the applicant as agent for the first
time to furnish a certificate to the commissioner, verified by an
executive officer or managing general or special agent of such
company, that the company has duly investigated the character and
record of such person and has satisfied itself that such person is
of good moral character and is qualified, fit and trustworthy to
act as its agent. The Commissioner of Insurance may at any time
require any company to obtain a credit report on an agent if the
commissioner deems such request advisable.

Should such credit report reflect information regarding an
offense or violation in relation to which the Department of
Insurance has taken action, such information shall not render
applicant ineligible for license if applicant has complied with
the order of the commissioner regarding such offense.

(3) No license shall be issued to any applicant nor shall
the Commissioner of Insurance issue a renewal of any license as
agent or solicitor until the new or renewal applicant shall file
an affidavit with the Commissioner of Insurance that the applicant
shall in good faith engage in the insurance business as agent or
solicitor, and that he is not seeking a license for the purpose of
acquiring or saving commissions, premiums or other valuable
considerations on "controlled business"; that is, on policies of
insurance to be issued to himself or to his relatives, business
associates, employers or employees, or in which they or either of
them have an interest. The title retained in connection with
conditional sales or title retention contracts shall not be
construed to constitute "an interest" in the seller within the
meaning of this article. A violation of this provision of this
section shall be deemed to be probable if the commissioner finds
that during any twelve-month period aggregate commissions or other
compensations accruing in favor of the applicant based upon the
insurance procured or to be procured by or through the applicant
with respect to his own interests or those of his family,
relatives, employers, employees or business associates, as
provided herein, have exceeded or will exceed thirty-five percent
(35%) of the aggregate amount of commissions or compensations
accruing to him as agent or his agency during such period of time.
Nothing herein contained shall prohibit the licensing under a
limited license as to motor vehicle physical damage insurance, any
person employed by or associated with a motor vehicle sales agency
with respect to insurance on a motor vehicle sold, serviced or
financed by it. Whenever employment is terminated of any such
person employed by or associated with any such agency, the
Commissioner of Insurance shall be notified, and the license shall
be cancelled immediately.

It is further provided that the provisions of this section
likewise shall not apply with respect to the interest of a real
estate mortgagee in or as to insurance covering such interest or
in the real estate subject to such mortgage.

(4) Each application or filing made under this section shall
include the social security number(s) of the applicant in
accordance with Section 93-11-64, Mississippi Code of 1972.
SECTION 23. This act shall take effect and be in force from and after January 1, 2002.