

By: Senator(s) Kirby

To: Insurance

SENATE BILL NO. 2744

1 AN ACT TO AMEND SECTION 81-18-5, MISSISSIPPI CODE OF 1972, TO
 2 EXEMPT FROM THE PROVISIONS OF THE MISSISSIPPI MORTGAGE CONSUMER
 3 PROTECTION ACT CERTAIN MANUFACTURED HOUSING RETAIL SALES COMPANIES
 4 OR SALESPERSONS WHO DO NOT RECEIVE ANY FEE, COMMISSION, KICKBACK,
 5 REBATE OR OTHER PAYMENT FOR DIRECTLY OR INDIRECTLY NEGOTIATING,
 6 PLACING OR FINDING A MORTGAGE FOR OTHERS; AND FOR RELATED
 7 PURPOSES.

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

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

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

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

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

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

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

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

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

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

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

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

58 (f) Any real estate company or licensed real estate
59 salesperson or broker who is actively engaged in the real estate
60 business and who does not receive any fee, commission, kickback,

61 rebate or other payment for directly or indirectly negotiating,
62 placing or finding a mortgage for others.

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

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

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

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

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

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

94 Development (HUD), the Federal Housing Administration (FHA), the
95 Department of Veterans Affairs (VA), the Farmers Home
96 Administration (FmHA), and the Federal Land Banks and Production
97 Credit Associations.

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

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

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

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