

By: Senator(s) Mettetal

To: Business and Financial
Institutions

SENATE BILL NO. 2858

1 AN ACT TO BRING FORWARD SECTION 81-18-5, MISSISSIPPI CODE OF
2 1972, WHICH RELATES TO EXEMPTIONS FROM THE PROVISIONS OF THE
3 MISSISSIPPI MORTGAGE CONSUMER PROTECTION LAW, FOR PURPOSE OF
4 AMENDMENT; AND FOR RELATED PURPOSES.

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

6 SECTION 1. Section 81-18-5, Mississippi Code of 1972, is
7 brought forward as follows:

8 81-18-5. The following persons are not subject to the
9 provisions of this chapter, unless otherwise provided in this
10 chapter:

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

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

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

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

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

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

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

49 (iii) Does not participate in the negotiation of
50 mortgage loans.

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

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

60 (g) Any person performing any act relating to mortgage
61 loans under order of any court.

62 (h) Any natural person, or the estate of or trust
63 created by a natural person, making a mortgage loan with his or
64 her own funds for his or her own investment, including but not
65 limited to, those natural persons, or the estates of or trusts
66 created by the natural person, who makes a purchase money mortgage
67 or financing sales of his or her own property. Any person who
68 enters into more than five (5) such investments or sales in any
69 twelve-month period is not exempt from being licensed under this
70 chapter.

71 (i) Any natural person who purchases mortgage loans
72 from a licensed mortgage company solely as an investment and who
73 is not in the business of making or servicing mortgage loans.

74 (j) Any person who makes a mortgage loan to his or her
75 employee as an employment benefit.

76 (k) The United States of America, the State of
77 Mississippi or any other state, and any agency, division or
78 corporate instrumentality thereof including, but not limited to,
79 the Mississippi Home Corporation, Rural Economic Community
80 Development (RECD), Habitat for Humanity, the Federal National
81 Mortgage Association (FNMA), the Federal Home Loan Mortgage
82 Company (FHLMC), the Government National Mortgage Association
83 (GNMA), the United States Department of Housing and Urban
84 Development (HUD), the Federal Housing Administration (FHA), the
85 Department of Veterans Affairs (VA), the Farmers Home
86 Administration (FmHA), and the Federal Land Banks and Production
87 Credit Associations.

88 (l) Government sponsored nonprofit corporations making
89 mortgage loans to promote home ownership or home improvements for
90 the disadvantaged.

91 (m) A natural person who is an employee or an exclusive
92 agent of a licensed mortgage company or any person exempted from

the licensing requirements of this chapter when acting within the scope of employment or exclusive agency with the licensee or exempted person.

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

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