

By: Representatives Wallace, Clarke, Eads,  
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To: Judiciary B

COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 1603

1 AN ACT TO AMEND SECTION 73-35-3, MISSISSIPPI CODE OF 1972, TO  
2 REVISE THE DEFINITION OF REAL ESTATE BROKER; TO AMEND SECTION  
3 73-35-5, MISSISSIPPI CODE OF 1972, TO REVISE THE DISTRICTS OF THE  
4 MISSISSIPPI REAL ESTATE COMMISSION; TO CODIFY SECTION 73-35-6,  
5 MISSISSIPPI CODE OF 1972, TO PROVIDE FOR LICENSES FOR BUSINESS  
6 ENTITIES; TO AMEND SECTION 73-35-7, MISSISSIPPI CODE OF 1972, TO  
7 REVISE LICENSE QUALIFICATIONS; TO AMEND SECTION 73-35-8,  
8 MISSISSIPPI CODE OF 1972, TO CLARIFY NONRESIDENT LICENSE  
9 REQUIREMENTS; TO AMEND SECTION 73-35-13, MISSISSIPPI CODE OF 1972,  
10 TO REVISE EXAMINATION REQUIREMENTS; TO CODIFY SECTION 73-35-14,  
11 MISSISSIPPI CODE OF 1972, TO PROVIDE FOR REAL ESTATE SCHOOLS AND  
12 PLACE THE REGULATION OF SUCH SCHOOLS UNDER THE COMMISSION; TO  
13 CODIFY SECTION 73-35-14.1, MISSISSIPPI CODE OF 1972, TO PROVIDE  
14 STANDARDS FOR REAL ESTATE SCHOOLS; TO CODIFY SECTION 73-35-14.2,  
15 MISSISSIPPI CODE OF 1972, TO PROVIDE STANDARDS FOR INSTRUCTORS; TO  
16 CODIFY SECTION 73-35-14.3, MISSISSIPPI CODE OF 1972, TO PROVIDE  
17 STANDARDS FOR COURSE CONTENT; TO CODIFY SECTION 73-35-14.4,  
18 MISSISSIPPI CODE OF 1972, TO PROVIDE FOR DISTANCE LEARNING  
19 COURSES; TO CODIFY SECTION 73-35-14.5, MISSISSIPPI CODE OF 1972,  
20 TO PROVIDE FOR TEMPORARY LICENSES AND POST-LICENSE EDUCATION; TO  
21 AMEND SECTION 73-35-15, MISSISSIPPI CODE OF 1972, TO REVISE NOTICE  
22 REQUIREMENTS REGARDING BROKER LOCATION; TO AMEND SECTION 73-35-16,  
23 MISSISSIPPI CODE OF 1972, TO REVISE THE PREMIUM AMOUNT FOR ERRORS  
24 AND OMISSIONS INSURANCE; TO AMEND SECTION 73-35-18, MISSISSIPPI  
25 CODE OF 1972, TO CLARIFY CONTINUING EDUCATION REQUIREMENTS; TO  
26 AMEND SECTION 73-35-23, MISSISSIPPI CODE OF 1972, TO REVISE THE  
27 VENUE OF HEARINGS; TO AMEND SECTION 89-1-503, MISSISSIPPI CODE OF  
28 1972, TO CLARIFY WRITTEN STATEMENTS IN CONVEYANCES; TO REPEAL  
29 SECTION 73-35-20, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR A  
30 TEMPORARY REAL ESTATE SALESPERSON LICENSE; TO AMEND SECTION 7 OF  
31 CHAPTER 588, GENERAL LAWS OF 1999, TO DELETE THE REPEALER ON  
32 CERTAIN SECTIONS OF THE REAL ESTATE BROKERS LICENSE LAW; AND FOR  
33 RELATED PURPOSES.

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

35 **SECTION 1.** Section 73-35-3, Mississippi Code of 1972, is  
36 amended as follows:

37 73-35-3. (1) The term "real estate broker" within the  
38 meaning of this chapter shall include all persons, partnerships,  
39 associations and corporations, foreign and domestic, who for a  
40 fee, commission or other valuable consideration, or who with the  
41 intention or expectation of receiving or collecting the same,  
42 list, sell, purchase, exchange, rent, lease, manage or auction any



43 real estate, or the improvements thereon, including options; or  
44 who negotiate or attempt to negotiate any such activity; or who  
45 advertise or hold themselves out as engaged in such activities; or  
46 who direct or assist in the procuring of a purchaser or prospect  
47 calculated or intended to result in a real estate  
48 transaction \* \* \*. The term "real estate broker" shall also  
49 include any person, partnership, association or corporation  
50 employed by or on behalf of the owner or owners of lots or other  
51 parcels of real estate, at a stated salary or upon fee, commission  
52 or otherwise, to sell such real estate, or parts thereof, in lots  
53 or other parcels, including timesharing and condominiums, and who  
54 shall sell, exchange or lease, or offer or attempt or agree to  
55 negotiate the sale, exchange or lease of, any such lot or parcel  
56 of real estate.

57 (2) The term "real estate" as used in this chapter shall  
58 include leaseholds as well as any and every interest or estate in  
59 land, including timesharing and condominiums, whether corporeal or  
60 incorporeal, freehold or nonfreehold, and whether said property is  
61 situated in this state or elsewhere; provided, however, that the  
62 term "real estate" as used in this chapter shall not include oil,  
63 gas or mineral leases, nor shall it include any other mineral  
64 leasehold, mineral estate or mineral interest of any nature  
65 whatsoever.

66 (3) One (1) act in consideration of or with the expectation  
67 or intention of, or upon the promise of, receiving compensation,  
68 by fee, commission or otherwise, in the performance of any act or  
69 activity contained in subsection (1) of this section, shall  
70 constitute such person, partnership, association or corporation a  
71 real estate broker and make him, them or it subject to the  
72 provisions and requirements of this chapter.

73 (4) The term "real estate salesperson" shall mean and  
74 include any person employed or engaged by or on behalf of a  
75 licensed real estate broker to do or deal in any activity as



76 included or comprehended by the definitions of a real estate  
77 broker in subsection (1) of this section, for compensation or  
78 otherwise.

79 (5) Exempt from the licensing requirements of this chapter  
80 shall be any person, partnership, association or corporation, who,  
81 as a bona fide owner, shall perform any aforesaid act with  
82 reference to property owned by them, or to the regular employees  
83 thereof who are on a stated salary, where such acts are performed  
84 in the regular course of business.

85 (6) The provisions of this chapter shall not apply to:

86 (a) Attorneys-at-law in the performance of primary or  
87 incidental duties as such attorneys-at-law.

88 (b) Any person holding in good faith a duly executed  
89 power of attorney from the owner, authorizing the final  
90 consummation and execution for the sale, purchase, leasing or  
91 exchange of real estate.

92 (c) The acts of any person while acting as a receiver,  
93 trustee, administrator, executor, guardian or under court order,  
94 or while acting under authority of a deed of trust or will.

95 (d) Public officers while performing their duties as  
96 such.

97 (e) Anyone dealing exclusively in oil and gas leases  
98 and mineral rights.

99 (7) Nothing in this chapter shall be construed to prohibit  
100 life insurance companies and their representatives from  
101 negotiating or attempting to negotiate loans secured by mortgages  
102 on real estate, nor shall these companies or their representatives  
103 be required to qualify as real estate brokers or agents under this  
104 chapter.

105 (8) The provisions of this chapter shall not apply to the  
106 activities of mortgagees approved by the Federal Housing  
107 Administration or the United States Department of Veterans  
108 Affairs, banks chartered under the laws of the State of



109 Mississippi or the United States, savings and loan associations  
110 chartered under the laws of the State of Mississippi or the United  
111 States, licensees under the Small Loan Regulatory Law, being  
112 Sections 75-67-101 through 75-67-135, and under the Small Loan  
113 Privilege Tax Law, being Sections 75-67-201 through 75-67-243,  
114 small business investment companies licensed by the Small Business  
115 Administration and chartered under the laws of the State of  
116 Mississippi, or any of their affiliates and subsidiaries, related  
117 to the making of a loan secured by a lien on real estate or to the  
118 disposing of real estate acquired by foreclosure or in lieu of  
119 foreclosure or otherwise held as security. No director, officer  
120 or employee of any such financial institution shall be required to  
121 qualify as a real estate broker or agent under this chapter when  
122 engaged in the aforesaid activities for and on behalf of such  
123 financial institution.

124       **SECTION 2.** Section 73-35-5, Mississippi Code of 1972, is  
125 amended as follows:

126       73-35-5. (1) There is hereby created the Mississippi Real  
127 Estate Commission. The commission shall consist of five (5)  
128 persons, to be appointed by the Governor with the advice and  
129 consent of the Senate. Each appointee shall have been a resident  
130 and citizen of this state for at least six (6) years prior to his  
131 appointment, and his vocation for at least five (5) years shall  
132 have been that of a real estate broker. One (1) member shall be  
133 appointed for the term of one (1) year; two (2) members for terms  
134 of two (2) years; two (2) members for terms of four (4) years;  
135 thereafter, the term of the members of said commission shall be  
136 for four (4) years and until their successors are appointed and  
137 qualify. There shall be at least one (1) commissioner from each  
138 congressional district \* \* \*, as such districts are constituted as  
139 of July 1, 2002. The commissioners appointed from each of the  
140 congressional districts shall be bona fide residents of the  
141 district from which each is appointed. One (1) additional



142 commissioner shall be appointed without regard to residence in any  
143 particular congressional district. Members to fill vacancies  
144 shall be appointed by the Governor for the unexpired term. The  
145 Governor may remove any commissioner for cause. The State of  
146 Mississippi shall not be required to furnish office space for such  
147 commissioners. The provisions of this section shall not affect  
148 persons who are members of the Real Estate Commission as of  
149 January 1, 2002. Such members shall serve out their respective  
150 terms, upon the expiration of which the provisions of this section  
151 shall take effect. Nothing provided herein shall be construed as  
152 prohibiting the reappointment of any member of the said  
153 commission.

154 (2) The commission shall organize by selecting from its  
155 members a chairman, and may do all things necessary and convenient  
156 for carrying into effect the provisions of this chapter, and may  
157 from time to time promulgate rules and regulations. Each member  
158 of the commission shall receive per diem as authorized in Section  
159 25-3-69, Mississippi Code of 1972, and his actual and necessary  
160 expenses incurred in the performance of duties pertaining to his  
161 office as authorized in Section 25-3-41, Mississippi Code of 1972.

162 (3) The commission shall adopt a seal by which it shall  
163 authenticate its proceedings. Copies of all records and papers in  
164 the office of the commission, duly certified and authenticated by  
165 the seal of said commission, shall be received in evidence in all  
166 courts equally and with like effect as the original. All records  
167 kept in the office of the commission under authority of this  
168 chapter shall be open to public inspection except pending  
169 investigative files.

170 **SECTION 3.** The following shall be codified as Section  
171 73-35-6, Mississippi Code of 1972:

172 73-35-6. A corporation, partnership, company or association  
173 shall be granted a license when individual broker's licenses have  
174 been issued to every member, owner, partner or officer of such



175 partnership, company, association or corporation who actively  
176 participates in its brokerage business and when any required fee  
177 is paid.

178 **SECTION 4.** Section 73-35-7, Mississippi Code of 1972, is  
179 amended as follows:

180 73-35-7. Licenses shall be granted only to persons who  
181 present, and to corporations, partnerships, companies or  
182 associations whose officers, associates or partners present  
183 satisfactory proof to the commission that they are trustworthy and  
184 competent to transact the business of a real estate broker or real  
185 estate salesperson in such manner as to safeguard the interests of  
186 the public. Every person who applies for a resident license as a  
187 real estate broker: (a) shall be age twenty-one (21) years or  
188 over, \* \* \* and have his legal domicile in the State of  
189 Mississippi at the time he applies; (b) shall be subject to the  
190 jurisdiction of this state, subject to the income tax laws and  
191 other excise laws thereof, subject to the road and bridge  
192 privilege tax laws thereof; (c) shall not be an elector in any  
193 other state; (d) shall have held a license as an active real  
194 estate salesperson for twelve (12) months immediately prior to  
195 making application for the broker's examination hereafter  
196 specified; (e) shall have successfully completed a minimum of one  
197 hundred twenty (120) \* \* \* hours of courses in real estate as  
198 hereafter specified; and (f) shall have successfully completed the  
199 real estate broker's examination as hereafter specified.

200 \* \* \*

201 Every applicant for a resident license as a real estate  
202 salesperson shall be age eighteen (18) years or over, shall  
203 be \* \* \* a bona fide resident of the State of Mississippi prior to  
204 filing his application, and shall have successfully completed a  
205 minimum of sixty (60) \* \* \* hours in courses in real estate as  
206 hereafter specified; and shall have successfully completed the



207 real estate salesperson's examination as hereafter specified.

208 \* \* \*

209 The residency requirements set forth in this section shall  
210 not apply to those licensees of other states who qualify and  
211 obtain nonresident licenses in this state.

212 The commission is authorized to exempt from such prelicensing  
213 educational requirements, in whole or in part, a real estate  
214 licensee of another state who desires to obtain a license under  
215 this chapter; provided, however, that the prelicensing educational  
216 requirements in the other state are determined by the commission  
217 to be equivalent to prelicensing educational requirements in this  
218 state and provided that such state extends this same privilege or  
219 exemption to Mississippi real estate licensees.

220 **SECTION 5.** Section 73-35-8, Mississippi Code of 1972, is  
221 amended as follows:

222 73-35-8. (1) A nonresident may apply for a nonresident's  
223 license in Mississippi provided the individual is (i) a licensed  
224 broker in another state or (ii) is a broker/salesperson or  
225 salesperson affiliated with a resident or nonresident Mississippi  
226 broker or (iii) is a nonresident who applies for a broker's  
227 license and who will maintain an office in Mississippi. The  
228 nonresident broker need not maintain a place of business within  
229 Mississippi provided he is regularly actively engaged in the real  
230 estate business and maintains a place of business in the other  
231 state. The nonresident licensee or applicant shall be subject to  
232 all the provisions of this chapter except for the residency  
233 requirement and approved equivalent prelicensing education.

234 (2) Every nonresident applicant shall file a statement of  
235 irrevocable consent with the Real Estate Commission that legal  
236 actions may be commenced against him in the proper court of any  
237 county of this state in which a cause of action may arise or in  
238 which the plaintiff may reside by service of process or pleading  
239 authorized by the laws of this state, by the Secretary of State of



240 Mississippi, or by any member of the commission or chief executive  
241 officer thereof, the consent stipulating that the service of  
242 process or pleading shall be taken in all courts to be valid and  
243 binding as if personal service had been made upon the nonresident  
244 licensee in this state. The consent shall be duly acknowledged.  
245 Every nonresident licensee shall consent to have any hearings  
246 conducted by the commission pursuant to Section 73-35-23,  
247 Mississippi Code of 1972, at a place designated by the commission.

248 (3) Any service of process or pleading shall be served on  
249 the executive officer of the commission by filing duplicate  
250 copies, one (1) of which shall be filed in the office of the  
251 commission and the other forwarded by certified mail to the last  
252 known principal address of the nonresident licensee against whom  
253 such process or pleading is directed. No default in any such  
254 action shall be taken except upon an affidavit of certification of  
255 the commission or the executive officer thereof that a copy of the  
256 process or pleading was mailed to the defendant as herein  
257 provided, and no default judgment shall be taken in any such  
258 action or proceeding until thirty (30) days after the mailing of  
259 process or pleading to the defendant.

260 (4) An applicant shall sign an agreement to cooperate with  
261 any investigation of the applicant's real estate brokerage  
262 activities which the commission may undertake.

263 (5) Each applicant for a nonresident license must qualify in  
264 all respects, including education, examination and fees, as an  
265 applicant who is a resident of Mississippi with the exception of  
266 the residency requirement and approved equivalent prelicensing  
267 education.

268 (6) A certification from the Executive Officer of the Real  
269 Estate Commission in the state in which the nonresident maintains  
270 his principal place of business shall be required. An applicant  
271 shall disclose all states in which he has held a real estate





272 license and furnish a certification of licensure from that state  
273 or states.

274 (7) The applicant/broker shall obtain an appropriate  
275 Mississippi license for the firm through which he intends to  
276 operate as a broker.

277 (8) Any nonresident broker, broker-salesperson and  
278 salesperson shall meet Mississippi continuing education  
279 requirements after becoming licensed just as any resident  
280 licensee.

281 (9) A broker or salesperson licensed in this state, on  
282 inactive status in good standing and no longer a resident of this  
283 state, may, after meeting other requirements for nonresident  
284 licensees, make application for a nonresident license without  
285 being required to meet current prelicensing educational  
286 requirements at the time of application or having to sit for the  
287 examination in order to obtain the equivalent nonresident license.

288 (10) A nonresident licensee in good standing who changes his  
289 legal domicile to the State of Mississippi may obtain a resident  
290 license equivalent to his nonresident license without meeting the  
291 current educational requirements or sitting for the examination,  
292 provided other requirements set forth for residents of the state  
293 are met.

294 (11) A nonresident licensee may utilize the inactive status  
295 for his license under the same requirements as a resident  
296 licensee, including but not limited to, continuing education  
297 requirements and ceasing active status under a licensed  
298 nonresident broker.

299 **SECTION 6.** Section 73-35-13, Mississippi Code of 1972, is  
300 amended as follows:

301 73-35-13. (1) In addition to proof of his honesty,  
302 trustworthiness and good reputation, the applicant shall take a  
303 written examination which shall be held at least four (4) times  
304 each year at regular intervals and on stated times by the



305 commission and shall test reading, writing, spelling, elementary  
306 arithmetic and his general knowledge of the statutes of this state  
307 relating to real property, deeds, mortgages, agreements of sale,  
308 agency, contract, leases, ethics, appraisals, the provisions of  
309 this chapter and such other matters the commission certifies as  
310 necessary to the practice of real estate brokerage in the State of  
311 Mississippi. The examination for a broker's license shall differ  
312 from the examination for a salesperson's license, in that it shall  
313 be of a more exacting nature and require higher standards of  
314 knowledge of real estate. The commission shall cause examinations  
315 to be conducted at such times and places as it shall determine.

316 (2) In event the license of any real estate broker or  
317 salesperson is revoked by the commission subsequent to the  
318 enactment of this chapter, no new license shall be issued to such  
319 person unless he complies with the provisions of this chapter.

320 (3) No person shall be permitted or authorized to act as a  
321 real estate broker or salesperson until he has qualified by  
322 examination, except as hereinbefore provided. Any individual who  
323 fails to pass the examination for salesperson upon two (2)  
324 occasions, shall be ineligible for a similar examination, until  
325 after the expiration of three (3) months from the time such  
326 individual last took the examination. Any individual who fails to  
327 pass the broker's examination upon two (2) occasions, shall be  
328 ineligible for a similar examination until after the expiration of  
329 six (6) months from the time such individual last took the  
330 examination, and then only upon making application as in the first  
331 instance.

332 (4) If the applicant is a partnership, association or  
333 corporation, said examination shall be taken on behalf of said  
334 partnership, association or corporation by the member or officer  
335 thereof who is designated in the application as the person to  
336 receive a license by virtue of the issuing of a license to such  
337 partnership, association or corporation.



338           (5) Upon satisfactorily passing such examination and upon  
339 complying with all other provisions of law and conditions of this  
340 chapter, a license shall thereupon be issued to the successful  
341 applicant who, upon receiving such license, is authorized to  
342 conduct the business of a real estate broker or real estate  
343 salesperson in this state.

344           (6) The commission is authorized to exempt from such  
345 examination, in whole or in part, a real estate licensee of  
346 another state who desires to obtain a license under this chapter;  
347 provided, however, that the examination administered in the other  
348 state is determined by the commission to be equivalent to such  
349 examination given in this state and provided that such other state  
350 extends this same privilege or exemption to Mississippi real  
351 estate licensees.

352           **SECTION 7.** The following shall be codified as Section  
353 73-35-14, Mississippi Code of 1972:

354           73-35-14. (1) An institution or organization desiring to  
355 conduct a school or offer a course of instruction to prepare  
356 persons to be licensed under this chapter, or to offer  
357 post-licensure courses, shall apply to the commission for  
358 accreditation, and shall submit evidence that it is prepared to  
359 carry out a prescribed minimum curriculum in real estate  
360 principles and practices as set forth in this chapter and can meet  
361 other standards established by the commission. An investigation  
362 of the school and of the institution or organization with which  
363 such school is affiliated shall be made by the commission. If, in  
364 the opinion of the commission, the requirements for an accredited  
365 school for instruction in real estate principles and practices are  
366 met, the commission shall approve the school as an accredited real  
367 estate school upon payment of the fees set forth in this chapter  
368 and such other fees as established by the commission. All schools  
369 so accredited shall register at required intervals on a form



370 provided and pay the required registration fees specified in this  
371 chapter and such other fees as established by the commission.

372 (2) The commission shall have the authority to revoke,  
373 suspend or otherwise discipline the accreditation of any real  
374 estate school, prelicense education provider or post-license  
375 education provider if the commission determines that the school or  
376 education provider is not meeting or has not met the standards  
377 required for such accreditation. If the commission determines  
378 that any accredited real estate school or education provider is  
379 not maintaining the standards required by the commission, notices  
380 thereof in writing specifying the defect or defects shall be given  
381 promptly to the school or provider. If such defect or defects are  
382 not remedied in the time specified by the commission, the  
383 commission shall hold a hearing to determine the disciplinary  
384 action, if any, to be taken. Such hearing will be noticed to the  
385 school or provider, who will be allowed to attend the hearing and  
386 present to the commission its reasons why it should not be  
387 disciplined.

388 (3) A college or university in the State of Mississippi  
389 accredited by the Southern Association of Colleges and Schools or  
390 the comparable regional accrediting authority shall be an approved  
391 education provider for prelicense courses for both the broker's  
392 and salesperson's license by virtue of such accreditation. Such  
393 colleges and universities are not required to meet any other  
394 standards provided herein.

395 **SECTION 8.** The following shall be codified as Section  
396 73-35-14.1, Mississippi Code of 1972:

397 73-35-14.1. (1) Minimum standards for initial and  
398 continuing accreditation as a real estate school or prelicense  
399 education provider shall include:

400 (a) Payment of any fees established by the commission.  
401 If the school or provider is accredited as a prelicense school or



402 prelicense education provider, fees shall include a biennial fee  
403 of Two Thousand Five Hundred Dollars (\$2,500.00).

404 (b) The school or prelicense education provider must  
405 maintain an annual average pass rate of at least sixty-five  
406 percent (65%) on each of the real estate broker's license  
407 examination and the real estate salesperson's license examination.  
408 The term "annual average pass rate" shall be as defined by the  
409 commission. If a school or prelicense education provider does not  
410 meet the minimum annual average pass rate, the commission shall  
411 allow the school or prelicense education provider a minimum of a  
412 three-month time period in which to attain the minimum annual  
413 average pass rate.

414 (c) Schools and prelicense education providers must use  
415 a method for instructor evaluation by students attending  
416 prelicense education classes. The commission may establish  
417 minimum standards for instructor evaluation. In the event the  
418 provider does not meet those minimum standards, the commission may  
419 revoke a provider's authority to offer prelicense education  
420 courses. Schools and prelicense education providers must provide  
421 the results of such instructor evaluations to the commission in  
422 the manner the commission directs.

423 (2) The commission may establish by rule such other  
424 standards for schools, prelicense education providers and  
425 post-license education providers as the commission may deem  
426 necessary.

427 **SECTION 9.** The following shall be codified as Section  
428 73-35-14.2, Mississippi Code of 1972:

429 73-35-14.2. (1) Minimum standards for instructors for  
430 prelicense and post-license education courses required for  
431 licensure as a real estate broker or a real estate salesperson  
432 shall include:



433 (a) Licensure as a Mississippi real estate broker or  
434 real estate salesperson for the immediate past five (5) years  
435 prior to application; or

436 (b) Current certification as a Certified Public  
437 Accountant; or

438 (c) Attainment of a Juris Doctor (J.D.) or Bachelor of  
439 Laws (L.L.B.) degree from a law school whose accreditation is  
440 recognized by the Mississippi Supreme Court; or

441 (d) Demonstration of significant expertise in a  
442 particular real estate related subject area, as determined and  
443 approved by the commission.

444 (2) The commission may establish by rule such other  
445 standards for instructors of prelicense education and post-license  
446 education as the commission may deem necessary.

447 **SECTION 10.** The following shall be codified as Section  
448 73-35-14.3, Mississippi Code of 1972:

449 73-35-14.3. (1) Minimum standards for the content for  
450 education courses required for licensure as a real estate broker  
451 or a real estate salesperson shall include content on:

452 (a) The provisions of this chapter and any rules and  
453 regulations promulgated hereunder;

454 (b) Listing property;

455 (c) Property valuation/appraisal;

456 (d) Real estate arithmetic;

457 (e) Characteristics of real property;

458 (f) Agency and nonagency relationships;

459 (g) Real estate sale contracts/agreements of sale;

460 (h) Leasing and property management;

461 (i) Transfer of title/ownership/deeds;

462 (j) Settlement procedures;

463 (k) Financing;

464 (l) Professional responsibilities and ethics;

465 (m) Fair housing;



466 (n) Federal laws affecting real estate.

467 (2) A prelicense course must meet any standards that the  
468 Association of Real Estate Licensing Law Officials (ARELLO), or  
469 its successor(s), may have for prelicense courses, including,  
470 without limitation, standards for content, form, examination,  
471 facilities and instructors. If ARELLO or its successor(s) operate  
472 a certification program for prelicense courses, a prelicense  
473 course must be certified by ARELLO or its successor(s) before the  
474 commission may approve the course.

475 (3) The commission may establish by rule such other  
476 standards for prelicense education course content as the  
477 commission may deem necessary.

478 (4) No more than eight (8) prelicense hours may be earned in  
479 a single day.

480 (5) Courses covering the general content of subsection (1)  
481 of this section that are acceptable for credit toward a degree at  
482 a college or university as approved by the Southern Association of  
483 Colleges and Schools or the comparable regional accrediting  
484 authority shall qualify for the minimum standards for prelicense  
485 education by virtue of said accreditation. A semester-hour credit  
486 shall be equal to fifteen (15) classroom hours and a quarter-hour  
487 credit shall be equal to ten (10) classroom hours. Courses given  
488 under this section by such accredited institutions are not  
489 required to meet ARELLO standards or certifications. The  
490 commission may establish by rule that specific areas of the  
491 general content areas listed in subsection (1) of this section are  
492 not required to be met by courses offered by the accredited  
493 institutions under this subsection.

494 **SECTION 11.** The following shall be codified as Section  
495 73-35-14.4, Mississippi Code of 1972:

496 73-35-14.4. (1) The term "distance learning courses(s)"  
497 shall mean any course approved by the commission in which the  
498 student is not physically present in a classroom with the



499 instructor, including, without limitation, correspondence courses,  
500 video/DVD based courses and online electronic courses.

501 (2) The commission may approve distance learning courses for  
502 prelicense education, post-license education and continuing  
503 education courses. Any distance learning course must meet any  
504 standards that the Association of Real Estate Licensing Law  
505 Officials (ARELLO), or its successor(s), may have for such  
506 courses, including, without limitation, standards for content,  
507 form, examination, facilities and instructors. If no ARELLO  
508 standards exist for a distance learning course, the commission  
509 shall establish by rule such minimum standards. If ARELLO or its  
510 successor(s) operate a certification program for distance learning  
511 courses, a distance learning course must be certified by ARELLO or  
512 its successor(s) before the commission may approve the course.

513 **SECTION 12.** The following shall be codified as Section  
514 73-35-14.5, Mississippi Code of 1972:

515 73-35-14.5. (1) Upon passing the Mississippi broker's or  
516 salesperson's examination and complying with all other conditions  
517 for licensure, a temporary license shall be issued to the  
518 applicant. The fee for the temporary license shall also be the  
519 same for the permanent license as provided in Section 73-35-17. A  
520 temporary license shall be valid for a period of one (1) year  
521 following the first day of the month after its issuance.

522 (2) All Mississippi residents who apply for and receive a  
523 nonresident Mississippi broker's or salesperson's license shall be  
524 subject to the requirements under this section, including  
525 temporary licensure and completion of a thirty-hour post-license  
526 course.

527 (3) The holder of a temporary license shall not be issued a  
528 permanent license until he has satisfactorily completed a  
529 thirty-hour post-license course prescribed by the commission and  
530 offered by providers specifically certified by the commission to  
531 offer this mandated post-license education. The holder of a





532 temporary license shall complete the entire thirty-hour course  
533 within twelve (12) months of issuance of his temporary license;  
534 otherwise this temporary license shall automatically be placed on  
535 inactive status by the Mississippi Real Estate Commission. If the  
536 holder of the temporary license does not complete the course and  
537 have his permanent license issued within one (1) year following  
538 the first day of the month after its issuance, the temporary  
539 license shall automatically expire and lapse. A temporary license  
540 is not subject to renewal procedures in this chapter and may not  
541 be renewed.

542 (4) The thirty-hour post-license course shall be offered by  
543 providers certified and approved by the commission, and an annual  
544 certification fee of One Thousand Dollars (\$1,000.00) shall be  
545 charged to providers. The thirty-hour post-license course work  
546 shall be offered in no less than fifteen-hour increments of  
547 classroom instruction. No more than eight (8) hours may be earned  
548 in a single day. The commission shall determine standards for  
549 approval of post-license courses and course providers, and shall  
550 require certification of such course work of the applicant. There  
551 shall be different content criteria for post-license education for  
552 salesperson licensees and for broker licensees. In the  
553 post-license course for salesperson licensees, a minimum of  
554 twenty-four (24) hours of the thirty-hour course work shall be in  
555 the following subjects: agency relationships, contracts, earnest  
556 money, antitrust, fair housing, ethics and property condition  
557 disclosure. The remaining six (6) hours shall be in subjects  
558 intended to enhance the competency of salesperson licensees in  
559 representing consumers, and may include the following subjects:  
560 pricing property, environmental issues, home inspections, leases  
561 and property management and mortgage processes. In the  
562 post-license course for broker licensees, a minimum of twenty-four  
563 (24) hours of the thirty hour course work shall be in the  
564 following subjects: managing escrow accounts, intraoffice



565 confidentiality, broker responsibilities to licensees, office  
566 policies and procedures (including agency office policies), broker  
567 agreements with licensees and assistants and MREC required forms  
568 and any other subject as the commission may, by rule, require to  
569 be included in such course. The remaining six (6) hours shall be  
570 in subjects intended to enhance the competency of brokers,  
571 including, without limitation, managing agents, recruiting,  
572 retention, budgeting and financial planning.

573 (5) The holder of an active license who has satisfactorily  
574 completed the post-license course and whose permanent license has  
575 been issued shall not be subject to the sixteen-hour continuing  
576 education requirement in this chapter for the first renewal of his  
577 permanent license.

578 **SECTION 13.** Section 73-35-15, Mississippi Code of 1972, is  
579 amended as follows:

580 73-35-15. (1) Every person, partnership, association or  
581 corporation licensed as a real estate broker shall be required to  
582 have and maintain a definite place of business, which shall be a  
583 room either in his home or an office elsewhere, to be used for the  
584 transaction of real estate business, or such business and any  
585 allied business. The certificate of registration as broker and  
586 the certificate of each real estate salesperson employed by such  
587 broker shall be prominently displayed in said office. The said  
588 place of business shall be designated in the license. In case of  
589 removal from the designated address, the licensee shall make  
590 application to the commission before removal, or within ten (10)  
591 days after removal, designating the new location of such office,  
592 whereupon the commission shall forthwith issue a new license for  
593 the new location for the unexpired period.

594 (2) All licenses issued to a real estate salesperson or  
595 broker-salesperson shall designate the responsible broker of such  
596 salesperson or broker-salesperson. Prompt notice in writing,  
597 within three (3) days, shall be given to the commission by any



598 real estate salesperson of a change of responsible broker, and of  
599 the name of the principal broker into whose agency the salesperson  
600 is about to enter; and a new license shall thereupon be issued by  
601 the commission to such salesperson for the unexpired term of the  
602 original license upon the return to the commission of the license  
603 previously issued. The change of responsible broker or employment  
604 by any licensed real estate salesperson without notice to the  
605 commission as required shall automatically cancel his license.  
606 Upon termination of a salesperson's agency, the responsible broker  
607 shall within three (3) days return the salesperson's license to  
608 the commission for cancellation. It shall be unlawful for any  
609 real estate salesperson to perform any of the acts contemplated by  
610 this chapter either directly or indirectly after his agency has  
611 been terminated and his license has been returned for cancellation  
612 until his license has been reissued by the commission.

613       **SECTION 14.** Section 73-35-16, Mississippi Code of 1972, is  
614 amended as follows:

615       73-35-16. (1) The following words and phrases shall have  
616 the meanings ascribed herein unless the context clearly indicates  
617 otherwise:

618           (a) "Aggregate limit" means a provision in an insurance  
619 contract limiting the maximum liability of an insurer for a series  
620 of losses in a given time period such as the policy term.

621           (b) "Claims-made" means policies written under a  
622 claims-made basis which shall cover claims made (reported or  
623 filed) during the year the policy is in force for incidents which  
624 occur that year or during any previous period the policyholder was  
625 insured under the claims-made contract. This form of coverage is  
626 in contrast to the occurrence policy which covers today's incident  
627 regardless of when a claim is filed even if it is one or more  
628 years later.

629           (c) "Extended reporting period" means a designated  
630 period of time after a claims-made policy has expired during which



631 a claim may be made and coverage triggered as if the claim had  
632 been made during the policy period.

633 (d) "Licensee" means any active individual broker,  
634 broker-salesperson or salesperson, any partnership or any  
635 corporation.

636 (e) "Per-claim limit" means the maximum limit payable,  
637 per licensee, for damages arising out of the same error, omission  
638 or wrongful act.

639 (f) "Prior acts coverage" applies to policies on a  
640 claims-made versus occurrence basis. Prior acts coverage responds  
641 to claims that are made during a current policy period, but the  
642 act or acts causing the claim or injuries for which the claim is  
643 made occurred prior to the inception of the current policy period.

644 (g) "Proof of coverage" means a copy of the actual  
645 policy of insurance, a certificate of insurance or a binder of  
646 insurance.

647 (h) "Retroactive date" means a provision, found in many  
648 claims-made policies, that the policy shall not cover claims for  
649 injuries or damages that occurred before the retroactive date even  
650 if the claim is first made during the policy period.

651 (2) The following persons shall submit proof of insurance:

652 (a) Any active individual broker, active  
653 broker-salesperson or active salesperson;

654 (b) Any partnership (optional); or

655 (c) Any corporation (optional).

656 (3) Individuals whose licenses are on inactive status are  
657 not required to carry errors and omissions insurance.

658 (4) All Mississippi licensees shall be covered for  
659 activities contemplated under this chapter.

660 (5) Licensees may obtain errors and omissions coverage  
661 through the insurance carrier approved by the Mississippi Real  
662 Estate Commission and provided on a group policy basis. The  
663 following are minimum requirements of the group policy to be



664 issued to the commission, including, as named insureds, all  
665 licensees who have paid their required premium:

666 (a) All activities contemplated under this chapter are  
667 included as covered activities;

668 (b) A per-claim limit is not less than One Hundred  
669 Thousand Dollars (\$100,000.00);

670 (c) An annual aggregate limit is not less than One  
671 Hundred Thousand Dollars (\$100,000.00);

672 (d) Limits apply per licensee per claim;

673 (e) Maximum deductible is Two Thousand Five Hundred  
674 Dollars (\$2,500.00) per licensee per claim for damages;

675 (f) Maximum deductible is One Thousand Dollars  
676 (\$1,000.00) per licensee per claim for defense costs; and

677 (g) The contract of insurance pays, on behalf of the  
678 injured person(s), liabilities owed.

679 (6) (a) The maximum contract period between the insurance  
680 carrier and the commission is to be three (3) consecutive policy  
681 terms, after which time period the commission shall place the  
682 insurance out for competitive bid. The commission shall reserve  
683 the right to place the contract out for bid at the end of any  
684 policy period.

685 (b) The policy period shall be a twelve-month policy  
686 term.

687 (c) The retroactive date for the master policy shall  
688 not be before July 1, 1994.

689 (i) The licensee may purchase full prior acts  
690 coverage on July 1, 1994, if the licensee can show proof of errors  
691 and omissions coverage that has been in effect since at least  
692 March 15, 1994.

693 (ii) If the licensee purchases full prior acts  
694 coverage on July 1, 1994, that licensee shall continue to be  
695 guaranteed full prior acts coverage if the insurance carriers are  
696 changed in the future.



697 (iii) If the licensee was not carrying errors and  
698 omissions insurance on July 1, 1994, the individual certificate  
699 shall be issued with a retroactive date of July 1, 1994. This  
700 date shall not be advanced if the insurance carriers are changed  
701 in the future.

702 (iv) For any new licensee who first obtains a  
703 license after July 1, 1994, the retroactive date shall be the  
704 effective date of licensure.

705 (v) For any licensee who changes status of license  
706 from inactive to active, the retroactive date shall be the  
707 effective date of change to "active" licensure.

708 (d) Each licensee shall be notified of the required  
709 terms and conditions of coverage for the policy at least thirty  
710 (30) days before the renewal date of the policy. A certificate of  
711 coverage, showing compliance with the required terms and  
712 conditions of coverage, shall be filed with the commission by the  
713 renewal date of the policy by each licensee who elects not to  
714 participate in the insurance program administered by the  
715 commission.

716 (e) If the commission is unable to obtain errors and  
717 omissions insurance coverage to insure all licensees who choose to  
718 participate in the insurance program at a premium of no more than  
719 One Hundred Fifty Dollars (\$150.00) per twelve-months' policy  
720 period, the requirement of insurance coverage under this section  
721 shall be void during the applicable contract period.

722 (7) Licensees may obtain errors and omissions coverage  
723 independently if the coverage contained in the policy complies  
724 with the following minimum requirements:

725 (a) All activities contemplated under this chapter are  
726 included as covered activities;

727 (b) A per-claim limit is not less than One Hundred  
728 Thousand Dollars (\$100,000.00);



729           (c) The deductible is not more than Two Thousand Five  
730 Hundred Dollars (\$2,500.00) per licensee per claim for damages and  
731 the deductible is not more than One Thousand Dollars (\$1,000.00)  
732 per licensee per claim for defense costs; and

733           (d) If other insurance is provided as proof of errors  
734 and omissions coverage, the other insurance carrier shall agree to  
735 a noncancelable policy or to provide a letter of commitment to  
736 notify the commission thirty (30) days before the intention to  
737 cancel.

738           (8) The following provisions apply to individual licensees:

739           (a) The commission shall require receipt of proof of  
740 errors and omissions insurance from new licensees within thirty  
741 (30) days of licensure. Any licenses issued at any time other  
742 than policy renewal time shall be subject to a pro rata premium.

743           (b) For licensees not submitting proof of insurance  
744 necessary to continue active licensure, the commission shall be  
745 responsible for sending notice of deficiency to those licensees.  
746 Licensees who do not correct the deficiency within thirty (30)  
747 days shall have their licenses placed on inactive status. The  
748 commission shall assess fees for inactive status and for return to  
749 active status when errors and omissions insurance has been  
750 obtained.

751           (c) Any licensee insured in the state program whose  
752 license becomes inactive shall not be charged an additional  
753 premium if the license is reactivated during the policy period.

754           (9) The commission is authorized to adopt such rules and  
755 regulations as it deems appropriate to handle administrative  
756 duties relating to operation of the program, including billing and  
757 premium collection.

758           **SECTION 15.** Section 73-35-18, Mississippi Code of 1972, is  
759 amended as follows:

760           73-35-18. (1) Each individual applicant for renewal of a  
761 license issued by the Mississippi Real Estate Commission shall, on



762 or before the expiration date of his license, or at a time  
763 directed by the commission, submit proof of completion of not less  
764 than sixteen (16) clock hours of approved course work to the  
765 commission, in addition to any other requirements for renewal.  
766 The sixteen (16) clock hours' course work requirement shall apply  
767 to each two-year license renewal, and hours in excess thereof  
768 shall not be cumulated or credited for the purposes of subsequent  
769 license renewals except as provided in this subsection (1). The  
770 commission shall develop standards for approval of courses and  
771 shall require certification of such course work of the applicant.  
772 The commission may determine any required subject matter within  
773 the mandated sixteen (16) hours; provided that the required  
774 subjects shall not exceed eight (8) hours of the total sixteen  
775 (16) hours. Approved continuing education hours earned in the  
776 final three (3) months of a licensee's renewal period, if in  
777 excess of the required minimum sixteen (16) hours, may be carried  
778 over and credited to the next renewal period. However, no more  
779 than six (6) hours may be carried over in this manner. Any member  
780 of the Mississippi Legislature who has a real estate license shall  
781 be credited with eight (8) hours of credit for the attendance of  
782 each year of a legislative session. No person may receive  
783 continuing education credit for prelicense education courses  
784 taken, except as follows: a licensee whose license is on inactive  
785 status and whose continuing education credits are at least thirty  
786 (30) hours in arrears may, at the discretion of the commission,  
787 receive continuing education credit for retaking prelicense  
788 coursework, provided the entire prelicense course is retaken.

789 (2) This section shall apply to renewals of licenses which  
790 expire on and after July 1, 1994; however, an applicant for first  
791 renewal who has been licensed for not more than one (1) year shall  
792 not be required to comply with this section for the first renewal  
793 of the applicant's license. The provisions of this section shall  
794 not apply to persons who have held a broker's or salesperson's





795 license in this state for at least twenty-five (25) years and who  
796 are older than seventy (70) years of age. Inactive licensees are  
797 not required to meet the real estate continuing education  
798 requirements specified in this section; however, such inactive  
799 licensees, before activating their license to active status, must  
800 cumulatively meet requirements missed during the period their  
801 license was inactive.

802 (3) The commission shall promulgate rules and regulations as  
803 necessary to accomplish the purposes of this section in accordance  
804 with the Mississippi Administrative Procedures Law.

805 (4) Any person who has been licensed as a real estate broker  
806 and allowed his license to expire for a period of less than five  
807 (5) years shall be eligible for reinstatement upon completion of  
808 the education requirements and payment of all penalties and  
809 reinstatement fees as prescribed by the commission. This  
810 subsection (4) of this section shall stand repealed from and after  
811 December 31, 1994.

812 **SECTION 16.** Section 73-35-23, Mississippi Code of 1972, is  
813 amended as follows:

814 73-35-23. (1) The commission is hereby authorized and  
815 directed to take legal action against any violator of this  
816 chapter. Upon complaint initiated by the commission or filed with  
817 it, the licensee or any other person charged with a violation of  
818 this chapter shall be given fifteen (15) days' notice of the  
819 hearing upon the charges filed, together with a copy of the  
820 complaint. The applicant or licensee or other violator shall have  
821 an opportunity to be heard in person or by counsel, to offer  
822 testimony, and to examine witnesses appearing in connection with  
823 the complaint. Hearings shall be held at the offices of the  
824 Mississippi Real Estate Commission, or at the commission's sole  
825 discretion, at a place determined by the commission.

826 At such hearings, all witnesses shall be sworn and  
827 stenographic notes of the proceedings shall be taken and filed as



828 a part of the record in the case. Any party to the proceedings  
829 shall be furnished with a copy of such stenographic notes upon  
830 payment to the commission of such fees as it shall prescribe, not  
831 exceeding, however, the actual cost to the commission. The  
832 commission shall render a decision on any complaint and shall  
833 immediately notify the parties to the proceedings in writing of  
834 its ruling, order or decision.

835 (2) In addition to the authority granted to the commission  
836 as hereinabove set forth, the commission is hereby vested with the  
837 authority to bring injunctive proceedings in any appropriate forum  
838 against any violator or violators of this chapter, and all judges  
839 or courts now having the power to grant injunctions are  
840 specifically granted the power and jurisdiction to hear and  
841 dispose of such proceedings.

842 (3) The commission is hereby authorized and empowered to  
843 issue subpoenas for the attendance of witnesses and the production  
844 of books and papers. The process issued by the commission shall  
845 extend to all parts of the state, and such process shall be served  
846 by any person designated by the commission for such service. The  
847 person serving such process receive such compensation as may be  
848 allowed by the commission, not to exceed the fee prescribed by  
849 law for similar services. All witnesses who are subpoenaed and  
850 who appear in any proceedings before the commission receive the  
851 same fees and mileage as allowed by law, and all such fees shall  
852 be taxed as part of the costs in the case.

853 (4) Where in any proceeding before the commission any  
854 witness shall fail or refuse to attend upon subpoena issued by the  
855 commission, shall refuse to testify, or shall refuse to produce  
856 any books and papers the production of which is called for by the  
857 subpoena, the attendance of such witness and the giving of his  
858 testimony and the production of the books and papers shall be  
859 enforced by any court of competent jurisdiction of this state in  
860 the same manner as the attendance and testimony of witnesses in



861 civil cases are enforced in the courts of this state.

862 (5) The commission may obtain legal counsel privately to  
863 represent it in proceedings when legal counsel is required.

864 **SECTION 17.** Section 89-1-503, Mississippi Code of 1972, is  
865 amended as follows:

866 89-1-503. The transferor of any real property subject to  
867 Sections 89-1-501-89-1-523 shall deliver to the prospective  
868 transferee the written property condition disclosure statement  
869 required by Sections 89-1-501 through 89-1-523, as follows:

870 (a) In the case of a sale, as soon as practicable  
871 before transfer of title.

872 (b) In the case of transfer by a real property sales  
873 contract, or by a lease together with an option to purchase, or a  
874 ground lease coupled with improvements, as soon as practicable  
875 before execution of the contract. For the purpose of this  
876 paragraph, "execution" means the making or acceptance of an offer.

877 With respect to any transfer subject to paragraph (a) or (b),  
878 the transferor shall indicate compliance with this act either on  
879 the receipt for deposit, the real property sales contract, the  
880 lease, or any addendum attached thereto or on a separate document.

881 If any disclosure, or any material amendment of any  
882 disclosure, required to be made by Section 89-1-501 through  
883 89-1-523, is delivered after the execution of an offer to  
884 purchase, the transferee shall have three (3) days after delivery  
885 in person or five (5) days after delivery by deposit in the mail,  
886 to terminate his or her offer by delivery of a written notice of  
887 termination to the transferor or the transferor's agent.

888 **SECTION 18.** Section 73-35-20, Mississippi Code of 1972,  
889 which provides for a temporary real estate salesperson license, is  
890 repealed.

891 **SECTION 19.** Section 7 of Chapter 588, Laws of 1999, is  
892 amended as follows:



893           Section 7. Section 1 of this act shall take effect and be in  
894 force from and after July 1, 1999, and the remainder of this act  
895 shall take effect and be in force from and after January 1, 2000.  
896           **SECTION 20.** This act shall take effect and be in force from  
897 and after July 1, 2002.

