

By: Senator(s) Hewes, Mettetal, Michel, Lee

To: Business and Financial Institutions

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2507

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

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

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

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



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

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

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

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



75 broker in subsection (1) of this section, for compensation or
76 otherwise.

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

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

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

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

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

93 (d) Public officers while performing their duties as
94 such.

95 (e) Anyone dealing exclusively in oil and gas leases
96 and mineral rights.

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

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



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

122 **SECTION 2.** The following shall be codified as Section
123 73-35-6, Mississippi Code of 1972:

124 73-35-6. A corporation, partnership, company or association
125 shall be granted a license when individual broker licenses have
126 been issued to every member, owner, partner or officer of such
127 partnership, company, association or corporation who actively
128 participates in its brokerage business and when any required fee
129 is paid.

130 **SECTION 3.** Section 73-35-7, Mississippi Code of 1972, is
131 amended as follows:

132 73-35-7. Licenses shall be granted only to persons who
133 present, and to corporations, partnerships, companies or
134 associations whose officers, associates or partners present
135 satisfactory proof to the commission that they are trustworthy and
136 competent to transact the business of a real estate broker or real
137 estate salesperson in such manner as to safeguard the interests of
138 the public. Every person who applies for a resident license as a
139 real estate broker: (a) shall be age twenty-one (21) years or
140 over * * * and have his legal domicile in the State of Mississippi



141 at the time he applies; (b) shall be subject to the jurisdiction
142 of this state, subject to the income tax laws and other excise
143 laws thereof, subject to the road and bridge privilege tax laws
144 thereof; (c) shall not be an elector in any other state; (d) shall
145 have held a license as an active real estate salesperson for
146 twelve (12) months immediately prior to making application for the
147 broker's examination hereafter specified; * * * (e) shall have
148 successfully completed a minimum of one hundred twenty (120) * * *
149 hours of courses in real estate as hereafter specified; and (f)
150 shall have successfully completed the real estate broker's
151 examination as hereafter specified * * *.

152 * * *

153 Every applicant for a resident license as a real estate
154 salesperson shall be age eighteen (18) years or over, shall
155 be * * * a bona fide resident of the State of Mississippi prior to
156 filing his application, * * * shall have successfully completed a
157 minimum of sixty (60) * * * hours in courses in real estate as
158 hereafter specified, and shall have successfully completed the
159 real estate salesperson's examination as hereafter
160 specified * * *.

161 * * *

162 * * * The residency requirements set forth in this section
163 shall not apply to those licensees of other states who qualify and
164 obtain nonresident licenses in this state.

165 The commission is authorized to exempt from such prelicensing
166 educational requirements, in whole or in part, a real estate
167 licensee of another state who desires to obtain a license under
168 this chapter; provided, however, that the prelicensing educational
169 requirements in the other state are determined by the commission
170 to be equivalent to prelicensing educational requirements in this
171 state and provided that such state extends this same privilege or
172 exemption to Mississippi real estate licensees.



173 **SECTION 4.** Section 73-35-8, Mississippi Code of 1972, is
174 amended as follows:

175 73-35-8. (1) A nonresident may apply for a nonresident's
176 license in Mississippi provided the individual is (a) a licensed
177 broker in another state or (b) is a broker/salesperson or
178 salesperson affiliated with a resident or nonresident Mississippi
179 broker or (c) is a nonresident who applies for a broker's license
180 and who will maintain an office in Mississippi. The nonresident
181 broker need not maintain a place of business within Mississippi
182 provided he is regularly actively engaged in the real estate
183 business and maintains a place of business in the other state.
184 The nonresident licensee or applicant shall be subject to all the
185 provisions of this chapter except for the residency requirement
186 and approved equivalent prelicensing education.

187 (2) Every nonresident applicant shall file a statement of
188 irrevocable consent with the Real Estate Commission that legal
189 actions may be commenced against him in the proper court of any
190 county of this state in which a cause of action may arise or in
191 which the plaintiff may reside by service of process or pleading
192 authorized by the laws of this state, by the Secretary of State of
193 Mississippi, or by any member of the commission or chief executive
194 officer thereof, the consent stipulating that the service of
195 process or pleading shall be taken in all courts to be valid and
196 binding as if personal service had been made upon the nonresident
197 licensee in this state. The consent shall be duly acknowledged.
198 Every nonresident licensee shall consent to have any hearings
199 conducted by the commission pursuant to Section 73-35-23,
200 Mississippi Code of 1972, at a place designated by the commission.

201 (3) Any service of process or pleading shall be served on
202 the executive officer of the commission by filing duplicate
203 copies, one (1) of which shall be filed in the office of the
204 commission and the other forwarded by certified mail to the last
205 known principal address of the nonresident licensee against whom



206 such process or pleading is directed. No default in any such
207 action shall be taken except upon an affidavit of certification of
208 the commission or the executive officer thereof that a copy of the
209 process or pleading was mailed to the defendant as herein
210 provided, and no default judgment shall be taken in any such
211 action or proceeding until thirty (30) days after the mailing of
212 process or pleading to the defendant.

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

216 (5) Each applicant for a nonresident license must qualify in
217 all respects, including education, examination and fees, as an
218 applicant who is a resident of Mississippi with the exception of
219 the residency requirement and approved equivalent prelicensing
220 education.

221 (6) A certification from the Executive Officer of the Real
222 Estate Commission in the state in which the nonresident maintains
223 his principal place of business shall be required. An applicant
224 shall disclose all states in which he has held a real estate
225 license and furnish a certification of licensure from that state
226 or states.

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

230 (8) Any nonresident broker, broker-salesperson and
231 salesperson shall meet Mississippi continuing education
232 requirements after becoming licensed just as any resident
233 licensee.

234 (9) A broker or salesperson licensed in this state, on
235 inactive status in good standing and no longer a resident of this
236 state, may, after meeting other requirements for nonresident
237 licensees, make application for a nonresident license without
238 being required to meet current pre-licensing educational



239 requirements at the time of application or having to sit for the
240 examination in order to obtain the equivalent nonresident license.

241 (10) A nonresident licensee in good standing who changes his
242 legal domicile to the State of Mississippi may obtain a resident
243 license equivalent to his nonresident license without meeting the
244 current educational requirements or sitting for the examination,
245 provided other requirements set forth for residents of the state
246 are met.

247 (11) A nonresident licensee may utilize the inactive status
248 for his license under the same requirements as a resident
249 licensee, including, but not limited to, continuing education
250 requirements and ceasing active status under a licensed
251 nonresident broker.

252 **SECTION 5.** Section 73-35-13, Mississippi Code of 1972, is
253 amended as follows:

254 73-35-13. (1) In addition to proof of his honesty,
255 trustworthiness and good reputation, the applicant shall take a
256 written examination which shall be held at least four (4) times
257 each year at regular intervals and on stated times by the
258 commission and shall test reading, writing, spelling, elementary
259 arithmetic and his general knowledge of the statutes of this state
260 relating to real property, deeds, mortgages, agreements of sale,
261 agency, contract, leases, ethics, appraisals and the provisions of
262 this chapter and such other matters the commission certifies as
263 necessary to the practice of real estate brokerage in the State of
264 Mississippi. The examination for a broker's license shall differ
265 from the examination for a salesperson's license, in that it shall
266 be of a more exacting nature and require higher standards of
267 knowledge of real estate. The commission shall cause examinations
268 to be conducted at such times and places as it shall determine.

269 (2) In event the license of any real estate broker or
270 salesperson is revoked by the commission subsequent to the



271 enactment of this chapter, no new license shall be issued to such
272 person unless he complies with the provisions of this chapter.

273 (3) No person shall be permitted or authorized to act as a
274 real estate broker or salesperson until he has qualified by
275 examination, except as hereinbefore provided. Any individual who
276 fails to pass the examination for salesperson upon two (2)
277 occasions, shall be ineligible for a similar examination, until
278 after the expiration of three (3) months from the time such
279 individual last took the examination. Any individual who fails to
280 pass the broker's examination upon two (2) occasions, shall be
281 ineligible for a similar examination until after the expiration of
282 six (6) months from the time such individual last took the
283 examination, and then only upon making application as in the first
284 instance.

285 (4) If the applicant is a partnership, association or
286 corporation, said examination shall be taken on behalf of said
287 partnership, association or corporation by the member or officer
288 thereof who is designated in the application as the person to
289 receive a license by virtue of the issuing of a license to such
290 partnership, association or corporation.

291 (5) Upon satisfactorily passing such examination and upon
292 complying with all other provisions of law and conditions of this
293 chapter, a license shall thereupon be issued to the successful
294 applicant who, upon receiving such license, is authorized to
295 conduct the business of a real estate broker or real estate
296 salesperson in this state.

297 (6) The commission is authorized to exempt from such
298 examination, in whole or in part, a real estate licensee of
299 another state who desires to obtain a license under this chapter;
300 provided, however, that the examination administered in the other
301 state is determined by the commission to be equivalent to such
302 examination given in this state and provided that such other state



303 extends this same privilege or exemption to Mississippi real
304 estate licensees.

305 **SECTION 6.** The following shall be codified as Section
306 73-35-14, Mississippi Code of 1972:

307 73-35-14. (1) An institution or organization desiring to
308 conduct a school or offer a course of instruction to prepare
309 persons to be licensed under this chapter, or to offer
310 post-licensure courses, shall apply to the commission for
311 accreditation, and shall submit evidence that it is prepared to
312 carry out a prescribed minimum curriculum in real estate
313 principles and practices as set forth in this chapter and can meet
314 other standards established by the commission. An investigation
315 of the school and of the institution or organization with which
316 such school is affiliated shall be made by the commission. If, in
317 the opinion of the commission, the requirements for an accredited
318 school for instruction in real estate principles and practices are
319 met, the commission shall approve the school as an accredited real
320 estate school upon payment of the fees set forth in this chapter
321 and such other fees as established by the commission. All schools
322 so accredited shall register at required intervals on a form
323 provided and pay the required registration fees specified in this
324 chapter and such other fees as established by the commission.

325 (2) The commission shall have the authority to revoke,
326 suspend or otherwise discipline the accreditation of any real
327 estate school, prelicense education provider or post-license
328 education provider if the commission determines that the school or
329 education provider is not meeting or has not met the standards
330 required for such accreditation. If the commission determines
331 that any accredited real estate school or education provider is
332 not maintaining the standards required by the commission, notices
333 thereof in writing specifying the defect or defects shall be given
334 promptly to the school or provider. If such defect or defects are
335 not remedied in the time specified by the commission, the



336 commission shall hold a hearing to determine the disciplinary
337 action, if any, to be taken. Such hearing will be noticed to the
338 school or provider, who will be allowed to attend the hearing and
339 present to the commission its reasons why it should not be
340 disciplined.

341 (3) A college or university in the State of Mississippi
342 accredited by the Southern Association of Colleges and Schools or
343 the comparable regional accrediting authority shall be an approved
344 education provider for prelicense courses for both the broker's
345 and salesperson's license by virtue of such accreditation. Such
346 colleges and universities are not required to meet any other
347 standards provided herein.

348 **SECTION 7.** The following shall be codified as Section
349 73-35-14.1, Mississippi Code of 1972:

350 73-35-14.1. (1) Minimum standards for initial and
351 continuing accreditation as a real estate school or prelicense
352 education provider shall include:

353 (a) Payment of any fees established by the commission.
354 If the school or provider is accredited as a prelicense school or
355 prelicense education provider, fees shall include a biennial fee
356 of Two Thousand Five Hundred Dollars (\$2,500.00).

357 (b) The school or prelicense education provider must
358 maintain an annual average pass rate of at least sixty-five
359 percent (65%) on each of the real estate broker's license
360 examination and the real estate salesperson's license examination.
361 The term "annual average pass rate" shall be as defined by the
362 commission. If a school or prelicense education provider does not
363 meet the minimum annual average pass rate, the commission shall
364 allow the school or prelicense education provider a minimum of a
365 three-month time period in which to attain the minimum annual
366 average pass rate.

367 (c) Schools and prelicense education providers must use
368 a method for instructor evaluation by students attending



369 prelicense education classes. The commission may establish
370 minimum standards for instructor evaluation. In the event the
371 provider does not meet the minimum standards, the commission may
372 revoke a provider's authority to offer prelicense education
373 courses. Schools and prelicense education providers must provide
374 the results of such instructor evaluations to the commission in
375 the manner the commission directs.

376 (2) The commission may establish by rule such other
377 standards for schools, prelicense education providers and
378 post-license education providers as the commission may deem
379 necessary.

380 **SECTION 8.** The following shall be codified as Section
381 73-35-14.2, Mississippi Code of 1972:

382 73-35-14.2. (1) Minimum standards for instructors for
383 prelicense and post-license education courses required for
384 licensure as a real estate broker or a real estate salesperson
385 shall include:

386 (a) Licensure as a Mississippi real estate broker or
387 real estate salesperson for the immediate past five (5) years
388 prior to application; or

389 (b) Current certification as a Certified Public
390 Accountant; or

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

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

397 **SECTION 9.** The following shall be codified as Section
398 73-35-14.3, Mississippi Code of 1972:

399 73-35-14.3. (1) Minimum standards for the content for
400 education courses required for licensure as a real estate broker
401 or a real estate salesperson shall include content on:



- 402 (a) The provisions of this chapter and any rules and
403 regulations promulgated hereunder;
- 404 (b) Listing property;
- 405 (c) Property valuation/appraisal;
- 406 (d) Real estate arithmetic;
- 407 (e) Characteristics of real property;
- 408 (f) Agency and nonagency relationships;
- 409 (g) Real estate sale contracts/agreements of sale;
- 410 (h) Leasing and property management;
- 411 (i) Transfer of title/ownership/deeds;
- 412 (j) Settlement procedures;
- 413 (k) Financing;
- 414 (l) Professional responsibilities and ethics;
- 415 (m) Fair housing; and
- 416 (n) Federal laws affecting real estate.

417 (2) A prelicense course must meet any standards that the
418 Association of Real Estate Licensing Law Officials (ARELLO), or
419 its successor(s), may have for prelicense courses, including,
420 without limitation, standards for content, form, examination,
421 facilities and instructors. If ARELLO or its successor(s) operate
422 a certification program for prelicense courses, a prelicense
423 course must be certified by ARELLO or its successor(s) before the
424 commission may approve the course.

425 (3) The commission may establish by rule such other
426 standards for prelicense education course content as the
427 commission may deem necessary.

428 (4) No more than eight (8) prelicense hours may be earned on
429 a single day.

430 (5) Courses covering the general content of subsection (1)
431 of this section that are acceptable for credit toward a degree at
432 a college or university as approved by the Southern Association of
433 Colleges and Schools or the comparable regional accrediting
434 authority shall qualify for the minimum standards for prelicense



435 education by virtue of said accreditation. A semester-hour credit
436 shall be equal to fifteen (15) classroom hours and a quarter-hour
437 credit shall be equal to ten (10) classroom hours. Courses given
438 under this section by such accredited institutions are not
439 required to meet ARELLO standards or certifications. The
440 commission may establish by rule that specific areas of the
441 general content areas listed in subsection (1) of this section are
442 not required to be met by courses offered by the accredited
443 institutions under this subsection.

444 **SECTION 10.** The following shall be codified as Section
445 73-35-14.4, Mississippi Code of 1972:

446 73-35-14.4. (1) The term "distance learning course(s)"
447 shall mean any course approved by the commission in which the
448 student is not physically present in a classroom with the
449 instructor, including, without limitation, correspondence courses,
450 video/DVD-based courses and online electronic courses.

451 (2) The commission may approve distance learning courses for
452 prelicense education, post-license education and continuing
453 education courses. Any distance learning course must meet any
454 standards that the Association of Real Estate Licensing Law
455 Officials (ARELLO), or its successor(s), may have for such
456 courses, including, without limitation, standards for content,
457 form, examination, facilities and instructors. If no ARELLO
458 standards exist for a distance learning course, the commission
459 shall establish by rule such minimum standards. If ARELLO or its
460 successor(s) operate a certification program for distance learning
461 courses, a distance learning course must be certified by ARELLO or
462 its successor(s) before the commission may approve the course.

463 **SECTION 11.** The following shall be codified as Section
464 73-35-14.5, Mississippi Code of 1972:

465 73-35-14.5. (1) Upon passing the Mississippi broker's or
466 salesperson's examination and complying with all other conditions
467 for licensure, a temporary license shall be issued to the



468 applicant. The fee for the temporary license shall also be the
469 same for the permanent license as provided in Section 73-35-17. A
470 temporary license shall be valid for a period of one (1) year
471 following the first day of the month after its issuance.

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

477 (3) The holder of a temporary license shall not be issued a
478 permanent license until he has satisfactorily completed a
479 thirty-hour post-license course prescribed by the commission and
480 offered by providers specifically certified by the commission to
481 offer this mandated post-license education. The holder of a
482 temporary license shall complete the entire thirty-hour course
483 within twelve (12) months of issuance of his temporary license;
484 otherwise this temporary license shall automatically be placed on
485 inactive status by the Mississippi Real Estate Commission. If the
486 holder of the temporary license does not complete the course and
487 have his permanent license issued within one (1) year following
488 the first day of the month after its issuance, the temporary
489 license shall automatically expire and lapse. A temporary license
490 is not subject to renewal procedures in this chapter and may not
491 be renewed.

492 (4) The thirty-hour post-license course shall be offered by
493 providers certified and approved by the commission, and an annual
494 certification fee of One Thousand Dollars (\$1,000.00) shall be
495 charged to providers. The thirty-hour post-license coursework
496 shall be offered in no less than fifteen-hour increments of
497 classroom instruction. No more than eight (8) hours may be earned
498 in a single day. The commission shall determine standards for
499 approval of post-license courses and course providers, and shall
500 require certification of such coursework of the applicant. There



501 shall be different content criteria for post-license education for
502 salesperson licensees and for broker licensees. In the
503 post-license course for salesperson licensees, a minimum of
504 twenty-four (24) hours of the thirty-hour coursework shall be in
505 the following subjects: agency relationships, contracts, earnest
506 money, antitrust, fair housing, ethics and property condition
507 disclosure. The remaining six (6) hours shall be in subjects
508 intended to enhance the competency of salesperson licensees in
509 representing consumers, and may include the following subjects:
510 pricing property, environmental issues, home inspections, leases
511 and property management, and mortgage processes. In the
512 post-license course for broker licensees, a minimum of twenty-four
513 (24) hours of the thirty-hour coursework shall be in the following
514 subjects: managing escrow accounts, intraoffice confidentiality,
515 broker responsibilities to licensees, office policies and
516 procedures (including agency office policies), broker agreements
517 with licensees and assistants and Mississippi Real Estate
518 Commission required forms and any other subject as the commission
519 may, by rule, require to be included in such course. The
520 remaining six (6) hours shall be in subjects intended to enhance
521 the competency of brokers, including, without limitation, managing
522 agents, recruiting, retention, budgeting and financial planning.

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

528 **SECTION 12.** Section 73-35-15, Mississippi Code of 1972, is
529 amended as follows:

530 73-35-15. (1) Every person, partnership, association or
531 corporation licensed as a real estate broker shall be required to
532 have and maintain a definite place of business, which shall be a
533 room either in his home or an office elsewhere, to be used for the



534 transaction of real estate business, or such business and any
535 allied business. The certificate of registration as broker and
536 the certificate of each real estate salesperson employed by such
537 broker shall be prominently displayed in said office. The said
538 place of business shall be designated in the license. In case of
539 removal from the designated address, the licensee shall make
540 application to the commission before removal, or within ten (10)
541 days after removal, designating the new location of such office,
542 whereupon the commission shall forthwith issue a new license for
543 the new location for the unexpired period.

544 (2) All licenses issued to a real estate salesperson or
545 broker-salesperson shall designate the responsible broker of such
546 salesperson or broker-salesperson. Prompt notice in writing,
547 within three (3) days, shall be given to the commission by any
548 real estate salesperson of a change of responsible broker, and of
549 the name of the principal broker into whose agency the salesperson
550 is about to enter; and a new license shall thereupon be issued by
551 the commission to such salesperson for the unexpired term of the
552 original license upon the return to the commission of the license
553 previously issued. The change of responsible broker or employment
554 by any licensed real estate salesperson without notice to the
555 commission as required shall automatically cancel his license.
556 Upon termination of a salesperson's agency, the responsible broker
557 shall within three (3) days return the salesperson's license to
558 the commission for cancellation. It shall be unlawful for any
559 real estate salesperson to perform any of the acts contemplated by
560 this chapter either directly or indirectly after his agency has
561 been terminated and his license has been returned for cancellation
562 until his license has been reissued by the commission.

563 **SECTION 13.** Section 73-35-16, Mississippi Code of 1972, is
564 amended as follows:



565 73-35-16. (1) The following words and phrases shall have
566 the meanings ascribed herein unless the context clearly indicates
567 otherwise:

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

571 (b) "Claims-made" means policies written under a
572 claims-made basis which shall cover claims made (reported or
573 filed) during the year the policy is in force for incidents which
574 occur that year or during any previous period the policyholder was
575 insured under the claims-made contract. This form of coverage is
576 in contrast to the occurrence policy which covers today's incident
577 regardless of when a claim is filed even if it is one or more
578 years later.

579 (c) "Extended reporting period" means a designated
580 period of time after a claims-made policy has expired during which
581 a claim may be made and coverage triggered as if the claim had
582 been made during the policy period.

583 (d) "Licensee" means any active individual broker,
584 broker-salesperson or salesperson, any partnership or any
585 corporation.

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

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

594 (g) "Proof of coverage" means a copy of the actual
595 policy of insurance, a certificate of insurance or a binder of
596 insurance.



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

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

602 (a) Any active individual broker, active
603 broker-salesperson or active salesperson;

604 (b) Any partnership (optional); or

605 (c) Any corporation (optional).

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

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

610 (5) Licensees may obtain errors and omissions coverage
611 through the insurance carrier approved by the Mississippi Real
612 Estate Commission and provided on a group policy basis. The
613 following are minimum requirements of the group policy to be
614 issued to the commission, including, as named insureds, all
615 licensees who have paid their required premium:

616 (a) All activities contemplated under this chapter are
617 included as covered activities;

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

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

622 (d) Limits apply per licensee per claim;

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

625 (f) Maximum deductible is One Thousand Dollars
626 (\$1,000.00) per licensee per claim for defense costs; and

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



629 (6) (a) The maximum contract period between the insurance
630 carrier and the commission is to be three (3) consecutive policy
631 terms, after which time period the commission shall place the
632 insurance out for competitive bid. The commission shall reserve
633 the right to place the contract out for bid at the end of any
634 policy period.

635 (b) The policy period shall be a twelve-month policy
636 term.

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

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

643 (ii) If the licensee purchases full prior acts
644 coverage on July 1, 1994, that licensee shall continue to be
645 guaranteed full prior acts coverage if the insurance carriers are
646 changed in the future.

647 (iii) If the licensee was not carrying errors and
648 omissions insurance on July 1, 1994, the individual certificate
649 shall be issued with a retroactive date of July 1, 1994. This
650 date shall not be advanced if the insurance carriers are changed
651 in the future.

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

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

658 (d) Each licensee shall be notified of the required
659 terms and conditions of coverage for the policy at least thirty
660 (30) days before the renewal date of the policy. A certificate of
661 coverage, showing compliance with the required terms and



662 conditions of coverage, shall be filed with the commission by the
663 renewal date of the policy by each licensee who elects not to
664 participate in the insurance program administered by the
665 commission.

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

672 (7) Licensees may obtain errors and omissions coverage
673 independently if the coverage contained in the policy complies
674 with the following minimum requirements:

675 (a) All activities contemplated under this chapter are
676 included as covered activities;

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

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

683 (d) If other insurance is provided as proof of errors
684 and omissions coverage, the other insurance carrier shall agree to
685 a noncancelable policy or to provide a letter of commitment to
686 notify the commission thirty (30) days before the intention to
687 cancel.

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

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

693 (b) For licensees not submitting proof of insurance
694 necessary to continue active licensure, the commission shall be



695 responsible for sending notice of deficiency to those licensees.
696 Licensees who do not correct the deficiency within thirty (30)
697 days shall have their licenses placed on inactive status. The
698 commission shall assess fees for inactive status and for return to
699 active status when errors and omissions insurance has been
700 obtained.

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

704 (9) The commission is authorized to adopt such rules and
705 regulations as it deems appropriate to handle administrative
706 duties relating to operation of the program, including billing and
707 premium collection.

708 **SECTION 14.** Section 73-35-18, Mississippi Code of 1972, is
709 amended as follows:

710 73-35-18. (1) Each individual applicant for renewal of a
711 license issued by the Mississippi Real Estate Commission shall, on
712 or before the expiration date of his license, or at a time
713 directed by the commission, submit proof of completion of not less
714 than sixteen (16) clock hours of approved coursework to the
715 commission, in addition to any other requirements for renewal.
716 The sixteen (16) clock hours' coursework requirement shall apply
717 to each two-year license renewal, and hours in excess thereof
718 shall not be cumulated or credited for the purposes of subsequent
719 license renewals except as provided in this subsection (1). The
720 commission shall develop standards for approval of courses and
721 shall require certification of such coursework of the applicant.
722 The commission may determine any required subject matter within
723 the mandated sixteen (16) hours; provided that the required
724 subjects shall not exceed eight (8) hours of the total sixteen
725 (16) hours. Approved continuing education hours earned in the
726 final three (3) months of a licensee's renewal period, if in
727 excess of the required minimum sixteen (16) hours, may be carried



728 over and credited to the next renewal period. However, no more
729 than six (6) hours may be carried over in this manner. Any member
730 of the Mississippi Legislature who has a real estate license shall
731 be credited with eight (8) hours of credit for the attendance of
732 each year of a legislative session. No person may receive
733 continuing education credit for prelicense education courses
734 taken; however, a licensee whose license is on active status and
735 whose continuing education credits are at least thirty (30) hours
736 in arrears may receive, in the discretion of the commission,
737 continuing education credit for retaking prelicense coursework if
738 the entire prelicense course is retaken.

739 (2) This section shall apply to renewals of licenses which
740 expire on and after July 1, 1994; however, an applicant for first
741 renewal who has been licensed for not more than one (1) year shall
742 not be required to comply with this section for the first renewal
743 of the applicant's license. The provisions of this section shall
744 not apply to persons who have held a broker's or salesperson's
745 license in this state for at least twenty-five (25) years and who
746 are older than seventy (70) years of age. Inactive licensees are
747 not required to meet the real estate continuing education
748 requirements specified in this section; however, such inactive
749 licensees, before activating their license to active status, must
750 cumulatively meet requirements missed during the period their
751 license was inactive.

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

755 (4) Any person who has been licensed as a real estate broker
756 and allowed his license to expire for a period of less than five
757 (5) years shall be eligible for reinstatement upon completion of
758 the education requirements and payment of all penalties and
759 reinstatement fees as prescribed by the commission. This



760 subsection (4) of this section shall stand repealed from and after
761 December 31, 1994.

762 **SECTION 15.** Section 73-35-23, Mississippi Code of 1972, is
763 amended as follows:

764 73-35-23. (1) The commission is hereby authorized and
765 directed to take legal action against any violator of this
766 chapter. Upon complaint initiated by the commission or filed with
767 it, the licensee or any other person charged with a violation of
768 this chapter shall be given fifteen (15) days' notice of the
769 hearing upon the charges filed, together with a copy of the
770 complaint. The applicant or licensee or other violator shall have
771 an opportunity to be heard in person or by counsel, to offer
772 testimony, and to examine witnesses appearing in connection with
773 the complaint. Hearings shall be held at the offices of the
774 Mississippi Real Estate Commission, or at a place determined by
775 the commission.

776 At such hearings, all witnesses shall be properly sworn and
777 stenographic notes of the proceedings shall be taken and filed as
778 a part of the record in the case. Any party to the proceedings
779 shall be furnished with a copy of such stenographic notes upon
780 payment to the commission of such fees as it shall prescribe, not
781 exceeding, however, the actual cost to the commission. The
782 commission shall render a decision on any complaint and shall
783 immediately notify the parties to the proceedings in writing of
784 its ruling, order or decision.

785 (2) In addition to the authority granted to the commission
786 as hereinabove set forth, the commission is hereby vested with the
787 authority to bring injunctive proceedings in any appropriate forum
788 against any violator or violators of this chapter, and all judges
789 or courts now having the power to grant injunctions are
790 specifically granted the power and jurisdiction to hear and
791 dispose of such proceedings.



792 (3) The commission is hereby authorized and empowered to
793 issue subpoenas for the attendance of witnesses and the production
794 of books and papers. The process issued by the commission shall
795 extend to all parts of the state, and such process shall be served
796 by any person designated by the commission for such service. The
797 person serving such process may receive such compensation as may
798 be allowed by the commission, not to exceed the fee prescribed by
799 law for similar services. All witnesses who are subpoenaed and
800 who appear in any proceedings before the commission may receive
801 the same fees and mileage as allowed by law, and all such fees
802 shall be taxed as part of the costs in the case.

803 (4) Where in any proceeding before the commission any
804 witness shall fail or refuse to attend upon subpoena issued by the
805 commission, shall refuse to testify, or shall refuse to produce
806 any books and papers the production of which is called for by the
807 subpoena, the attendance of such witness and the giving of his
808 testimony and the production of the books and papers shall be
809 enforced by any court of competent jurisdiction of this state in
810 the same manner as the attendance and testimony of witnesses in
811 civil cases are enforced in the courts of this state.

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

814 **SECTION 16.** Section 89-1-503, Mississippi Code of 1972, is
815 amended as follows:

816 89-1-503. The transferor of any real property subject to
817 Sections 89-1-501 through 89-1-523 shall deliver to the
818 prospective transferee the written property condition disclosure
819 statement required by Sections 89-1-501 through 89-1-523, as
820 follows:

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

823 (b) In the case of transfer by a real property sales
824 contract, or by a lease together with an option to purchase, or a



825 ground lease coupled with improvements, as soon as practicable
826 before execution of the contract. For the purpose of this
827 paragraph, "execution" means the making or acceptance of an offer.

828 With respect to any transfer subject to paragraph (a) or (b),
829 the transferor shall indicate compliance with Sections 89-1-501
830 through 89-1-523 either on the receipt for deposit, the real
831 property sales contract, the lease, or any addendum attached
832 thereto or on a separate document.

833 If any disclosure, or any material amendment of any
834 disclosure, required to be made by Sections 89-1-501 through
835 89-1-523, is delivered after the execution of an offer to
836 purchase, the transferee shall have three (3) days after delivery
837 in person or five (5) days after delivery by deposit in the mail,
838 to terminate his or her offer by delivery of a written notice of
839 termination to the transferor or the transferor's agent.

840 **SECTION 17.** Section 73-35-20, Mississippi Code of 1972,
841 which provides for a temporary real estate salesperson's license,
842 is hereby repealed.

843 **SECTION 18.** Section 7 of Chapter 588, General Laws of 1999,
844 is amended as follows:

845 Section 7. Section 1 of this act shall take effect and be in
846 force from and after July 1, 1999, and the remainder of this act
847 shall take effect and be in force from and after January 1,
848 2000 * * *.

849 **SECTION 19.** This act shall take effect and be in force from
850 and after July 1, 2002.

