

*****Adopted*****

AMENDMENT No. 1 PROPOSED TO

Senate Bill NO. 2507

By Representative(s) Committee

**Amend by striking all after the enacting clause and inserting
in lieu thereof the following:**

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

expenses incurred in the performance of duties pertaining to his office as authorized in Section 25-3-41, Mississippi Code of 1972.

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

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

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

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

73-35-7. Licenses shall be granted only to persons who present, and to corporations, partnerships, companies or associations whose officers, associates or partners present satisfactory proof to the commission that they are trustworthy and competent to transact the business of a real estate broker or real estate salesperson in such manner as to safeguard the interests of the public. Every person who applies for a resident license as a real estate broker: (a) shall be age twenty-one (21) years or over, * * * and have his legal domicile in the State of Mississippi at the time he applies; (b) shall be subject to the jurisdiction of this state, subject to the income tax laws and other excise laws thereof, subject to the road and bridge privilege tax laws thereof; (c) shall not be an elector in any other state; (d) shall have held a license as an active real estate salesperson for twelve (12) months immediately prior to

making application for the broker's examination hereafter specified; (e) shall have successfully completed a minimum of one hundred twenty (120) * * * hours of courses in real estate as hereafter specified; and (f) shall have successfully completed the real estate broker's examination as hereafter specified.

* * *

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

* * *

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

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

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

73-35-8. (1) A nonresident may apply for a nonresident's license in Mississippi provided the individual is (i) a licensed broker in another state or (ii) is a broker/salesperson or salesperson affiliated with a resident or nonresident Mississippi broker or (iii) is a nonresident who applies for a broker's license and who will maintain an office in Mississippi. The nonresident broker need not maintain a place of business within Mississippi provided he is regularly actively engaged in the real

estate business and maintains a place of business in the other state. The nonresident licensee or applicant shall be subject to all the provisions of this chapter except for the residency requirement and approved equivalent prelicensing education.

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

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

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

(5) Each applicant for a nonresident license must qualify in all respects, including education, examination and fees, as an

applicant who is a resident of Mississippi with the exception of the residency requirement and approved equivalent prelicensing education.

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

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

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

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

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

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

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

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

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

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

(4) If the applicant is a partnership, association or corporation, said examination shall be taken on behalf of said partnership, association or corporation by the member or officer

thereof who is designated in the application as the person to receive a license by virtue of the issuing of a license to such partnership, association or corporation.

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

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

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

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

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

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

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

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

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

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

(b) The school or prelicense education provider must

maintain an annual average pass rate of at least sixty-five percent (65%) on each of the real estate broker's license examination and the real estate salesperson's license examination.

The term "annual average pass rate" shall be as defined by the commission. If a school or prelicense education provider does not meet the minimum annual average pass rate, the commission shall allow the school or prelicense education provider a minimum of a three-month time period in which to attain the minimum annual average pass rate.

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

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

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

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

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

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

(c) Attainment of a Juris Doctor (J.D.) or Bachelor of Laws (L.L.B.) degree from a law school whose accreditation is

recognized by the Mississippi Supreme Court; or

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

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

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

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

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

(b) Listing property;

(c) Property valuation/appraisal;

(d) Real estate arithmetic;

(e) Characteristics of real property;

(f) Agency and nonagency relationships;

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

(h) Leasing and property management;

(i) Transfer of title/ownership/deeds;

(j) Settlement procedures;

(k) Financing;

(l) Professional responsibilities and ethics;

(m) Fair housing;

(n) Federal laws affecting real estate.

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

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

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

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

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

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

(2) The commission may approve distance learning courses for prelicense education, post-license education and continuing education courses. Any distance learning course must meet any standards that the Association of Real Estate Licensing Law Officials (ARELLO), or its successor(s), may have for such courses, including, without limitation, standards for content, form, examination, facilities and instructors. If no ARELLO standards exist for a distance learning course, the commission shall establish by rule such minimum standards. If ARELLO or its

successor(s) operate a certification program for distance learning courses, a distance learning course must be certified by ARELLO or its successor(s) before the commission may approve the course.

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

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

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

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

(4) The thirty-hour post-license course shall be offered by providers certified and approved by the commission, and an annual certification fee of One Thousand Dollars (\$1,000.00) shall be

charged to providers. The thirty-hour post-license coursework shall be offered in no less than fifteen-hour increments of classroom instruction. No more than eight (8) hours may be earned in a single day. The commission shall determine standards for approval of post-license courses and course providers, and shall require certification of such coursework of the applicant. There shall be different content criteria for post-license education for salesperson licensees and for broker licensees. In the post-license course for salesperson licensees, a minimum of twenty-four (24) hours of the thirty-hour coursework shall be in the following subjects: agency relationships, contracts, earnest money, antitrust, fair housing, ethics and property condition disclosure. The remaining six (6) hours shall be in subjects intended to enhance the competency of salesperson licensees in representing consumers, and may include the following subjects: pricing property, environmental issues, home inspections, leases and property management, and mortgage processes. In the post-license course for broker licensees, a minimum of twenty-four (24) hours of the thirty-hour coursework shall be in the following subjects: managing escrow accounts, intraoffice confidentiality, broker responsibilities to licensees, office policies and procedures (including agency office policies), broker agreements with licensees and assistants and Mississippi Real Estate Commission required forms and any other subject as the commission may, by rule, require to be included in such course. The remaining six (6) hours shall be in subjects intended to enhance the competency of brokers, including, without limitation, managing agents, recruiting, retention, budgeting and financial planning.

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

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

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

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

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

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

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

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

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

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

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

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

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

(h) "Retroactive date" means a provision, found in many claims-made policies, that the policy shall not cover claims for injuries or damages that occurred before the retroactive date even

if the claim is first made during the policy period.

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

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

(b) Any partnership (optional); or

(c) Any corporation (optional).

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

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

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

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

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

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

(d) Limits apply per licensee per claim;

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

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

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

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

period, the requirement of insurance coverage under this section shall be void during the applicable contract period.

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

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

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

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

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

(8) The following provisions apply to individual licensees:

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

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

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

(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

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

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

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

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

73-35-23. (1) The commission is hereby authorized and directed to take legal action against any violator of this chapter. Upon complaint initiated by the commission or filed with it, the licensee or any other person charged with a violation of this chapter shall be given fifteen (15) days' notice of the hearing upon the charges filed, together with a copy of the complaint. The applicant or licensee or other violator shall have an opportunity to be heard in person or by counsel, to offer testimony, and to examine witnesses appearing in connection with the complaint. Hearings shall be held at the offices of the 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

the same manner as the attendance and testimony of witnesses in civil cases are enforced in the courts of this state.

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

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

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

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

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

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

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

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

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

Section 7. Section 1 of this act shall take effect and be in 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,
896 2000 * * *.

897 **SECTION 20.** This act shall take effect and be in force from
898 and after July 1, 2002, and shall apply to persons who apply for
899 licensing after that date. Any person who has applied for a
900 license before July 1, 2002, shall be governed by the law as it
901 existed before July 1, 2002.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

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.