To: Judiciary B

MISSISSIPPI LEGISLATURE REGULAR SESSION 2003
By: Representative Ford

HOUSE BILL NO. 781

AN ACT TO REENACT SECTIONS 73-35-17 THROUGH 73-35-20, MISSISSIPPI CODE OF 1972, WHICH ARE CERTAIN PROVISIONS REGULATING BROKERS AND SALES OF REAL ESTATE; TO REENACT SECTION 89-1-509, WHICH PROVIDES FOR CERTAIN DISCLOSURES TO BE MADE ON A DISCLOSURE FORM; TO AMEND SECTION 7, CHAPTER 588, LAWS OF 1999, TO DELETE THE REPEALER ON THE REENACTED SECTIONS; TO CREATE A NEW SECTION TO REPEAL THE REENACTED SECTIONS IN THE TITLE OF THIS BILL ON JULY 1, 2004; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 73-35-17, Mississippi Code of 1972, is reenacted as follows:

73-35-17. (1) A fee not to exceed One Hundred Fifty Dollars ($150.00) shall accompany an application for a real estate broker's license, and in the event that the applicant successfully passes the examination, no additional fee shall be required for the issuance of a license for a one-year period; provided, that if an applicant fails to pass the examination, he may be eligible to take the next or succeeding examination without the payment of an additional fee. In the event a contract testing service is utilized, the application fee along with the additional testing fee as incurred by the commission in contracting the cost of the examination shall accompany such application.

(2) For each license as a real estate broker issued to a member of a partnership, association or officer of a corporation other than the member or officer named in the license issued to such partnership, association or corporation, a fee not to exceed Seventy-five Dollars ($75.00) shall be charged.

(3) A fee not to exceed One Hundred Twenty Dollars ($120.00) shall accompany an application for a real estate salesperson's license, and in the event that the applicant successfully passes
the examination, no additional fee shall be required for the
issuance of a license for a one-year period; provided, that if an
applicant fails to pass the examination, he may be eligible to
take the next or succeeding examination without the payment of an
additional fee. In the event a contract testing service is
utilized, the applicable fee along with the prevailing cost
incurred by the commission in contracting the cost of the
examination shall accompany such application.

(4) It shall be the duty of all persons, partnerships,
associations, companies or corporations licensed to practice as a
real estate broker or salesperson to register with the commission
annually or biennially, in the discretion of the commission,
according to rules promulgated by it and to pay the proper
registration fee. An application for renewal of license shall be
made to the commission annually no later than December 31 of each
year, or biennially on a date set by the commission. A licensee
failing to pay his renewal fee after the same becomes due and
after two (2) months' written notice of his delinquency mailed to
him by United States certified mail addressed to his address of
record with the commission shall thereby have his license
automatically cancelled. Any licensee renewing in this grace
period shall pay a penalty in the amount of one hundred percent
(100%) of the renewal fee. The renewal fee shall not exceed
Seventy-five Dollars ($75.00) per year for real estate brokers,
partnerships, associations and corporations. The renewal fee for
a real estate salesperson's license shall not exceed Sixty Dollars
($60.00) per year.

(5) For each additional office or place of business, an
annual fee not to exceed Fifty Dollars ($50.00) shall be charged.

(6) For each change of office or place of business, a fee
not to exceed Fifty Dollars ($50.00) shall be charged.

(7) For each duplicate or transfer of salesperson's license,
a fee not to exceed Fifty Dollars ($50.00) shall be charged.
(8) For each duplicate license, where the original license is lost or destroyed, and affidavit made thereof, a fee not to exceed Fifty Dollars ($50.00) shall be charged.

(9) To change status as a licensee from active to inactive status, a fee not to exceed Twenty-five Dollars ($25.00) shall be charged. To change status as a licensee from inactive to active status, a fee not to exceed Fifty Dollars ($50.00) shall be charged.

(10) For each bad check received by the commission, a fee not to exceed Twenty-five Dollars ($25.00) shall be charged.

(11) A fee not to exceed Five Dollars ($5.00) per hour of instruction may be charged to allay costs of seminars for educational purposes provided by the commission.

(12) A fee not to exceed Twenty-five Dollars ($25.00) may be charged for furnishing any person a copy of a real estate license, a notarized certificate of licensure or other official record of the commission.

(13) A fee not to exceed One Hundred Dollars ($100.00) shall be charged to review and process the application and instructional materials for each curriculum seeking acceptance as a real estate continuing education course developed to satisfy the mandatory continuing education requirements for this chapter, with the period of approval expiring after one (1) year. A fee not to exceed Fifty Dollars ($50.00) shall be charged for each renewal of a previously approved course, with the period of renewal expiring after one (1) year.

(14) Fees, up to the limits specified herein, shall be established by the Mississippi Real Estate Commission.

SECTION 2. Section 73-35-18, Mississippi Code of 1972, is reenacted as follows:

73-35-18. (1) Each individual applicant for renewal of a license issued by the Mississippi Real Estate Commission shall, on or before the expiration date of his license, or at a time
directed by the commission, submit proof of completion of not less than sixteen (16) clock hours of approved course work to the commission, in addition to any other requirements for renewal. The sixteen (16) clock hours' course work requirement shall apply to each two-year license renewal, and hours in excess thereof shall not be cumulated or credited for the purposes of subsequent license renewals except as provided in this subsection (1). The commission shall develop standards for approval of courses and shall require certification of such course work of the applicant. The commission may determine any required subject matter within the mandated sixteen (16) hours; provided that the required subjects shall not exceed eight (8) hours of the total sixteen (16) hours. Approved continuing education hours earned in the final three (3) months of a licensee's renewal period, if in excess of the required minimum sixteen (16) hours, may be carried over and credited to the next renewal period. However, no more than six (6) hours may be carried over in this manner. Any member of the Mississippi Legislature who has a real estate license shall be credited with eight (8) hours of credit for the attendance of each year of a legislative session. No person may receive continuing education credit for prelicense education courses taken, except as follows: a licensee whose license is on inactive status and whose continuing education credits are at least thirty (30) hours in arrears may, at the discretion of the commission, receive continuing education credit for retaking prelicense coursework, provided the entire prelicense course is retaken.

(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 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 3. Section 73-35-19, Mississippi Code of 1972, is reenacted as follows:

73-35-19. All fees charged and collected under this chapter shall be paid by the administrator at least once a week, accompanied by a detailed statement thereof, into the treasury of the state to credit of a fund to be known as the "Real Estate License Fund," which fund is hereby created. All monies which shall be paid into the State Treasury and credited to the "Real Estate License Fund" are hereby appropriated to the use of the commission in carrying out the provisions of this chapter including the payment of salaries and expenses, printing an annual directory of licensees, and for educational purposes. Maintenance of a searchable, internet-based web site shall satisfy the requirement for publication of a directory of licensees under this section.

SECTION 4. Section 73-35-20, Mississippi Code of 1972, is reenacted as follows:
73-35-20. (1) Upon passing the Mississippi 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. An applicant for the Mississippi broker's license who has not held an active real estate salesperson's license for a period of at least twelve (12) months immediately prior to submitting an application shall also be subject to the requirements under this section, including temporary licensure and completion of a thirty-hour post-license course.

(2) 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 his 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 in not subject to renewal procedures in this chapter and may not be renewed.

(3) 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 course work 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 course work of the applicant. A minimum of twenty-four (24) hours of the thirty-hour course work 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 licensees in representing consumers, and may include the following subject: pricing property, environmental issues, home inspections, leases and property management, and mortgage processes.

(4) 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 twenty-hour continuing education requirement in this chapter for the first renewal of his permanent license.

SECTION 5. Section 89-1-509, Mississippi Code of 1972, is reenacted as follows:

89-1-509. The disclosures required by Sections 89-1-501 through 89-1-523 pertaining to the property proposed to be transferred shall be set forth in, and shall be made on a copy of a disclosure form, the structure and composition of which shall be determined by the Mississippi Real Estate Commission.

SECTION 6. Section 7, 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 shall take effect and be in force from and after January 1, 2000.

SECTION 8. Section 7 of this act shall be codified in Title 35, Chapter 73, Mississippi Code of 1972.

SECTION 9. This act shall take effect and be in force from and after July 1, 2003.