

By: Representative Moak

To: Insurance

HOUSE BILL NO. 71

1 AN ACT TO AMEND SECTION 83-17-1, MISSISSIPPI CODE OF 1972, TO
2 REVISE THE DEFINITION OF THE TERM AGENT AS USED IN THE LAWS
3 REGULATING THE INSURANCE INDUSTRY; AND FOR RELATED PURPOSES.

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

5 **SECTION 1.** Section 83-17-1, Mississippi Code of 1972, is
6 amended as follows:

7 83-17-1. Whenever used in this chapter, the following words
8 shall have the meanings ascribed herein unless the context clearly
9 indicates otherwise:

10 (a) "Agent" means a person required to be licensed
11 under the laws of this state to sell, solicit or negotiate
12 insurance.

13 (b) "Insurance solicitor" refers to and includes any
14 person directly connected with and principally employed by and
15 authorized by an insurance agent to solicit and negotiate or
16 assist in any manner in the sale and issuance of policies or
17 contracts of insurance solely on behalf of such agents, and no
18 license shall be renewed for any solicitor unless it is
19 conclusively shown that more than fifty percent (50%) of his total
20 annual employment income for the preceding year is derived from
21 commissions on insurance. The agent appointing such solicitor
22 shall be responsible for the acts of the solicitor. Any violation
23 of the insurance laws by the solicitor may be grounds for
24 revocation of license of both the agent and the solicitor after
25 proper hearing. The commission of any unlawful act by the
26 solicitor shall be prima facie evidence that the agent had
27 knowledge of such act.

28 (c) "Inactive agent" means an individual who is
29 retired, disabled or has not obtained from the Commissioner of
30 Insurance a current continuous certificate. An inactive agent
31 shall not solicit new business or service existing businesses, but
32 may receive renewal commissions.

33 (d) "Supervising general agent" refers to and includes
34 any person, partnership, association or corporation having
35 authority to serve as trustees, managers or administrators, except
36 attorneys at law, for such licensed insurance companies or their
37 insureds in the handling of insurance programs underwritten by
38 such licensed insurance companies, or in which they may be
39 participating.

40 (e) "Excess risk" means all or any portion of an
41 insurance risk or contract of annuity for which application is
42 made to an agent and which exceeds the amount of insurance or
43 annuity which will be provided by the insurer for which such agent
44 is licensed.

45 (f) "Rejected risk" means an insurance risk or annuity
46 contract for which application has been made to an agent and which
47 insurance or annuity contract is declined by the insurer for which
48 such agent is licensed.

49 (g) "Insurance producer" means an agent as defined
50 under this section.

51 (h) "Commissioner" means the Commissioner of Insurance
52 of the State of Mississippi.

53 (i) "Controlled business" means policies of insurance
54 to be issued to a producer, agent or solicitor or to his
55 relatives, business associates, employers or employees, or in
56 which they or either of them have an interest. No license shall
57 be granted or renewed to any agent or producer until the applicant
58 files an affidavit with the Commissioner of Insurance that the
59 applicant shall in good faith engage in the insurance business as
60 agent, producer or solicitor, and that he is not seeking a license

61 for the purpose of acquiring or saving commissions, premiums or
62 other valuable considerations on "controlled business." A
63 violation of this paragraph shall be deemed to be probable if the
64 commissioner finds that during any twelve-month period aggregate
65 commissions or other compensations accruing in favor of the
66 applicant with respect to his own interests or those of his
67 family, relatives, employers, employees or business associates, as
68 provided herein, have exceeded or will exceed thirty-five percent
69 (35%) of the aggregate amount of commissions accruing to him as
70 agent or his agency during such period of time. Nothing herein
71 contained shall prohibit the licensing under a limited license as
72 to motor vehicle physical damage insurance, any person employed by
73 or associated with a motor vehicle sales agency with respect to
74 insurance on a motor vehicle sold, serviced or financed by it.
75 Whenever employment is terminated of any such person employed by
76 or associated with any such agency, the Commissioner of Insurance
77 shall be notified, and the license shall be cancelled immediately.
78 It is further provided that the provisions of this paragraph
79 likewise shall not apply with respect to sales of insurance by a
80 lender or its affiliate covering the insurable interest of the
81 lender.

82 **SECTION 2.** This act shall take effect and be in force from
83 and after July 1, 2004.