

By: Senator(s) Michel

To: Business and Financial  
Institutions

SENATE BILL NO. 3000

1 AN ACT TO AMEND SECTION 73-34-3, MISSISSIPPI CODE OF 1972, TO  
 2 DELETE THE DEFINITION OF THE TERM "TIMBERLAND" AS USED IN THE REAL  
 3 ESTATE APPRAISER LICENSING AND CERTIFICATION ACT; TO AMEND SECTION  
 4 73-34-5, MISSISSIPPI CODE OF 1972, TO DELETE THE TIMBERLAND  
 5 APPRAISER LICENSE; TO AMEND SECTION 73-34-7, MISSISSIPPI CODE OF  
 6 1972, TO REVISE THE COMPOSITION OF THE BOARD TO CONFORM TO CURRENT  
 7 CONGRESSIONAL DISTRICTS; TO AMEND SECTIONS 73-34-17, 73-34-19 AND  
 8 73-34-21, MISSISSIPPI CODE OF 1972, TO REVISE THE EDUCATIONAL  
 9 REQUIREMENTS FOR APPRAISER LICENSES; TO AMEND SECTION 73-34-33,  
 10 MISSISSIPPI CODE OF 1972, TO REVISE CONTINUING EDUCATION  
 11 REQUIREMENTS; TO AMEND SECTION 73-34-41, MISSISSIPPI CODE OF 1972,  
 12 TO AUTHORIZE THE BOARD TO TAKE ACTION OTHER THAN A FORMAL HEARING  
 13 AT THE CLOSE OF AN INVESTIGATION; TO AMEND SECTION 73-34-45,  
 14 MISSISSIPPI CODE OF 1972, TO DELETE LANGUAGE CONCERNING FEES  
 15 IMPOSED ON LICENSEES BEFORE 1991; AND FOR RELATED PURPOSES.

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

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

19 73-34-3. As used in this chapter, the following terms and  
 20 phrases shall have the following meanings unless the context  
 21 clearly indicates otherwise:

22 (a) "Appraisal" means an analysis, opinion or  
 23 conclusion prepared by a real estate appraiser relating to the  
 24 nature, quality, value or utility of specified interests in, or  
 25 aspects of, identified real estate or identified real property.  
 26 An appraisal may be classified by the nature of the assignment  
 27 into either a valuation assignment or an evaluation assignment.  
 28 The term "valuation assignment" means an analysis, opinion or  
 29 conclusion prepared by a real estate appraiser that estimates the  
 30 value of an identified parcel of real estate or identified real  
 31 property at a particular point in time. The term "evaluation  
 32 assignment" means an analysis, opinion or conclusion prepared by a

33 real estate appraiser that relates to the nature, quality or  
34 utility of identified real estate or identified real property.

35 (b) "Appraisal report" means any communication, written  
36 or oral, of an appraisal. For the purposes of this chapter, the  
37 testimony of an appraiser dealing with the appraiser's analyses,  
38 conclusions or opinions concerning identified real property is  
39 deemed to be an oral appraisal report.

40 (c) "Board" means the Mississippi Real Estate Appraiser  
41 Licensing and Certification Board that is established pursuant to  
42 the provisions of this chapter.

43 (d) "Certified appraisal report" means an appraisal  
44 report given or signed and certified as such by a state certified  
45 real estate appraiser. When a state certified real estate  
46 appraiser identifies an appraisal report as "certified," such  
47 state certified real estate appraiser must indicate which type of  
48 certification he holds. The certification of an appraisal report  
49 by a state certified real estate appraiser represents to the  
50 public that it meets the appraisal standards established pursuant  
51 to this chapter.

52 (e) "Commission" means the Mississippi Real Estate  
53 Commission as established under Section 73-35-5, Mississippi Code  
54 of 1972.

55 (f) "Licensed real estate appraiser" means a person who  
56 holds a current, valid appraiser license issued to him under the  
57 provisions of this chapter.

58 (g) "Real estate or real property" means an identified  
59 parcel or tract of land, with improvements, and includes  
60 easements, rights-of-way, undivided or future interest, or similar  
61 rights in a tract of land, but does not include mineral rights,  
62 timber rights, growing crops, water rights, or similar interests  
63 severable from the land when the transaction does not involve the  
64 associated parcel or tract of land.

65 (h) "Real estate appraisal activity" means the act or  
66 process of making an appraisal of Mississippi real estate or real  
67 property and preparing an appraisal report.

68 (i) "Real estate appraiser" means a person who engages  
69 in real estate appraisal activity \* \* \*.

70 (j) "Real property" means one or more defined  
71 interests, benefits or rights inherent in the ownership of real  
72 estate.

73 (k) "State certified real estate appraiser" means a  
74 person who holds a current, valid license as a real estate  
75 appraiser issued to him under the provisions of this chapter for  
76 certified real estate appraisers.

77 \* \* \*

78 **SECTION 2.** Section 73-34-5, Mississippi Code of 1972, is  
79 amended as follows:

80 73-34-5. (1) Except as otherwise provided for in this  
81 section, it shall be unlawful for anyone to engage in real estate  
82 appraisal activity in this state without first obtaining one (1)  
83 of the three (3) real estate appraiser licenses as provided in  
84 this chapter.

85 (a) \* \* \* If \* \* \* the Appraisal Subcommittee of the  
86 Federal Financial Institutions Examination Council or the  
87 Appraisal Standards Board or Appraiser Qualifications Board of the  
88 Appraisal Foundation \* \* \* waives any requirement relating to  
89 certification or licensing of persons to perform appraisals in  
90 Mississippi, then such waiver shall also be effective in  
91 Mississippi under the Real Estate Appraiser Licensing and  
92 Certification Act and such requirement shall be waived by the Real  
93 Estate Appraiser Licensing and Certification Board until the  
94 waiver is terminated \* \* \*.

95 (b) The provisions of this chapter shall not apply to  
96 any director, officer or salaried employee of commercial banks,  
97 savings banks, credit unions, and savings and loan associations,

98 when engaged in appraisal or evaluation activities for and on  
99 behalf of such financial institution unless there is a fee charged  
100 for the appraisal or evaluation; provided that a federal statute,  
101 rule or regulation does not require such appraisal or evaluation  
102 activities to be performed by a state licensed appraiser.

103 (c) This section shall not be construed to apply to  
104 individuals who do not render significant professional assistance  
105 in arriving at a real estate appraisal analysis, opinion or  
106 conclusion. Examples of the type of assistance which are not  
107 considered "significant professional assistance" under this  
108 section include the following: (i) assistance in obtaining the  
109 data upon which the appraisal is based; (ii) assistance in the  
110 physical preparation of the appraisal report (such as taking  
111 photographs, preparing charts, maps or graphs, or typing or  
112 printing the report); and (iii) any other assistance that does not  
113 directly involve the exercise of judgment in arriving at the  
114 analysis, opinions or conclusions concerning real estate or real  
115 property set forth in the appraisal report.

116 (2) This chapter shall not apply to a real estate broker or  
117 salesperson licensed by this state who, in the ordinary course of  
118 his business, gives an opinion as to the price of real estate for  
119 the purpose of a prospective listing or sale; provided, however,  
120 that this opinion as to the listing price or the sale price shall  
121 not be referred to as an appraisal and provided, further, that no  
122 compensation, fee or other consideration is charged for such  
123 opinion other than the real estate commission or brokerage fee  
124 that is charged or paid for brokerage services rendered in  
125 connection with the sale of the real property involved.

126 (3) The provisions of this chapter shall not apply to:

127 (a) Any state, county, or municipal public officers or  
128 their salaried employees while performing their duties as such;

129           (b) The employees of private firms engaged pursuant to  
130 Section 27-35-165(2)(a) who perform work under the direction of  
131 the county tax assessor; or

132           (c) Private consultants hired pursuant to Section  
133 27-35-165(2)(b) and all personnel employed or otherwise engaged by  
134 private consultants to appraise property who perform work under  
135 the direction of the county tax assessor.

136           (4) No license shall be issued under the provisions of this  
137 chapter to a corporation, partnership, firm or group.

138           (5) The provisions of this chapter shall not apply to  
139 individuals performing timber cruises \* \* \*.

140           **SECTION 3.** Section 73-34-7, Mississippi Code of 1972, is  
141 amended as follows:

142           73-34-7. (1) (a) There is hereby established, as an  
143 adjunct board to the Mississippi Real Estate Commission, a board  
144 to be known as the Mississippi Real Estate Appraiser Licensing and  
145 Certification Board, which shall consist of six (6) members. Five  
146 (5) members shall be appointed by the Governor, with the advice  
147 and consent of the Senate, one (1) from each congressional  
148 district as such district exists on July 1, 2004, and one (1) from  
149 the state at large; the Administrator of the Mississippi Real  
150 Estate Commission shall be an ex officio, nonvoting member.  
151 Gubernatorial appointments shall be made pursuant to the procedure  
152 established in this subsection. At least two (2) members shall be  
153 certified general real estate appraisers and one (1) member shall  
154 be a certified residential real estate appraiser. Upon the  
155 expiration of a member's term, the member shall continue to serve  
156 until the appointment and qualification of a successor. No person  
157 shall be appointed as a member of the board for more than two (2)  
158 consecutive terms. The Governor may remove an appointed member  
159 for cause.

160           (b) The \* \* \* appointments made by the Governor shall  
161 be in compliance with guidelines issued by the Federal Financial

162 Institutions Examination Council or its designee \* \* \*. Not more  
163 than two (2) positions on the board shall be filled with  
164 appointees who hold membership in the same professional appraisal  
165 organization.

166 \* \* \*

167 (2) The board shall meet not less than twice a calendar  
168 year. Written notice shall be given to each member of the time  
169 and place of each meeting of the board at least ten (10) days  
170 prior to the scheduled date of the meeting.

171 (3) A quorum of the board shall be three (3) voting members;  
172 commencing January 1, 1992, at least one (1) present must be a  
173 licensed certified general real estate appraiser or a certified  
174 residential real estate appraiser. Appointed members of the board  
175 are entitled to mileage and actual expenses as authorized by  
176 Section 25-3-41 and per diem as provided by Section 25-3-69; ex  
177 officio members are entitled to mileage and actual expenses only.

178 (4) The board shall elect a chairman and such other officers  
179 as it deems necessary. Such officers shall serve as such for  
180 terms established by the board.

181 **SECTION 4.** Section 73-34-17, Mississippi Code of 1972, is  
182 amended as follows:

183 73-34-17. To qualify to be a licensed real estate appraiser,  
184 an applicant must:

185 (a) Successfully complete not less than the minimum  
186 number of classroom hours \* \* \* consisting of course criteria as  
187 set by the Appraiser Qualifications Board (AQB), and as approved  
188 by the Mississippi Real Estate Appraiser Licensing and  
189 Certification Board. \* \* \*

190 (b) Pass an exam administered by the commission that is  
191 based upon required appraisal study and is designed to test an  
192 individual's knowledge of the basic principles of land economics  
193 and the basic principles of real estate appraising.

194 (c) Be trustworthy and competent to transact the  
195 business of real estate appraising.

196 (d) Comply with such other requirements as may be  
197 prescribed by the board.

198 The courses of study referred to in paragraph (a) above must  
199 (i) be conducted by an accredited university, college or junior  
200 college; (ii) be conducted by an approved appraisal society,  
201 institute or association; or (iii) be conducted by such other  
202 school as may be approved by the board; or (iv) consist of courses  
203 relating to appraisal education that were approved by the  
204 Mississippi Real Estate Commission prior to July 1, 1990.

205 **SECTION 5.** Section 73-34-19, Mississippi Code of 1972, is  
206 amended as follows:

207 73-34-19. The following shall be the two (2) classes for  
208 licensed certified real estate appraisers and one (1) class for  
209 licensed real estate appraisers:

210 (a) Licensed certified residential real estate  
211 appraiser. The licensed certified residential real estate  
212 appraiser classification shall consist of those persons who meet  
213 the requirements that relate to the appraisal of residential real  
214 property of one (1) to four (4) units without regard to  
215 transaction value or complexity. In addition, when nonfederally  
216 related transactions are involved, the licensed certified  
217 residential real estate appraiser shall enjoy the same privileges  
218 as set forth for the licensed real estate appraiser.

219 (b) Licensed certified general real estate appraiser.  
220 The licensed certified general real estate appraiser  
221 classification shall consist of those persons who meet the  
222 requirements relating to the appraisal of all types of real  
223 estate.

224 (c) Licensed \* \* \* real estate appraiser. The  
225 licensed \* \* \* real estate appraiser classification shall consist  
226 of those persons who meet the requirements that relate to the

227 appraisal of all types of real estate that does not require a  
228 certified appraisal.

229 Each application for licensing as a licensed certified real  
230 estate appraiser, or for the renewal of a license, and each  
231 application to take an examination, shall specify the  
232 classification of licensing being applied for and, if applicable,  
233 the class of license previously granted. Each applicant shall be  
234 trustworthy and competent to transact the business of real estate  
235 appraising and comply with such other requirements as may be  
236 prescribed by the board.

237 **SECTION 6.** Section 73-34-21, Mississippi Code of 1972, is  
238 amended as follows:

239 73-34-21. (1) As a prerequisite to taking the examination  
240 for licensing as a licensed certified residential real estate  
241 appraiser, an applicant shall present acceptable evidence that  
242 such applicant has successfully completed not less than the  
243 minimum number of classroom hours in courses of study as required  
244 by the Appraiser Qualifications Board (AQB) and as approved by the  
245 board \* \* \*. The courses of study referred to above must be  
246 conducted by an accredited university, college or junior college;  
247 an approved appraisal society, institute or association; or such  
248 other school as may be approved by the board and in compliance  
249 with federal requirements \* \* \*.

250 (2) As a prerequisite to taking the examination for  
251 licensing as a licensed certified general real estate appraiser,  
252 an applicant shall present acceptable evidence that such applicant  
253 has successfully completed not less than \* \* \* the minimum number  
254 of classroom hours in courses of study as required by the  
255 Appraiser Qualifications Board (AQB) and as approved by the board.  
256 The courses of study referred to above must be conducted by an  
257 accredited university, college or junior college; an approved  
258 appraisal society, institute or association; or such other school

259 as may be approved by the board and in compliance with federal  
260 requirements \* \* \*.

261 (3) As a prerequisite to taking the examination for  
262 licensing as a licensed \* \* \* real estate appraiser, an applicant  
263 shall present acceptable evidence that such applicant has  
264 successfully completed not less than the minimum number of  
265 classroom hours in courses of study as required by the Appraiser  
266 Qualifications Board (AQB) and as approved by the board. \* \* \*  
267 The courses of study referred to above must be conducted by an  
268 accredited university, college or junior college; an approved  
269 appraisal society, institute or association; or such other school  
270 as may be approved by the board and in compliance with federal  
271 requirements.

272 (4) A license as a licensed certified real estate appraiser  
273 shall not be issued to any person who does not possess the minimum  
274 number of classroom hours in courses of study as required by the  
275 Appraiser Qualifications Board (AQB) and as approved by the board,  
276 supported by adequate written reports or file memoranda.

277 **SECTION 7.** Section 73-34-33, Mississippi Code of 1972, is  
278 amended as follows:

279 73-34-33. (1) As a prerequisite to renewal of license, an  
280 active status licensed appraiser shall present evidence  
281 satisfactory to the board that such appraiser has met the  
282 continuing education requirements of this section. The basic  
283 continuing education requirement for renewal of a license shall be  
284 completed by the applicant, during the immediately preceding term  
285 of licensure, of not less than the minimum number of classroom  
286 hours in courses of study as required by the Appraiser  
287 Qualifications Board (AQB) and as approved by the board. Inactive  
288 status licensees are not required to meet the continuing education  
289 requirements specified in this section; however, such inactive  
290 licensees, before activating their license to active status, shall

291 cumulatively meet the requirements missed during the period their  
292 license was inactive.

293 (2) In lieu of meeting the requirements set forth above, an  
294 applicant for renewal may satisfy \* \* \* the requirements provided  
295 in subsection (1), except for USPAP, by presenting evidence of the  
296 following:

297 (a) Completion of an educational program of study  
298 determined by the board to be equivalent, for continuing education  
299 purposes, to courses or seminars approved by the board; or

300 (b) Participation, other than as a student, in  
301 educational processes and programs approved by the board which  
302 relate to real property appraisal theory, practices or techniques,  
303 including, but not necessarily limited to, teaching, program  
304 development and preparation of textbooks, monographs, articles and  
305 other instructional materials.

306 (3) The board shall develop regulations for the  
307 implementation of the provisions of this section to ensure that an  
308 individual who renews his license as a licensed appraiser or as a  
309 licensed certified real estate appraiser under this chapter has a  
310 working knowledge of current real estate appraisal theories,  
311 practices and techniques that will enable him to provide competent  
312 real estate appraisal services to the members of the public with  
313 whom he deals in a professional relationship under the authority  
314 of his licensure. The regulations developed by the board shall  
315 prescribe the following:

316 (a) Policies and procedures to be followed in obtaining  
317 board approval of courses of instruction and seminars;

318 (b) Standards, policies and procedures to be used by  
319 the board in evaluating an applicant's claims of equivalency; and

320 (c) Standards, monitoring methods, and systems for  
321 recording attendance to be employed by course and seminar sponsors  
322 as a prerequisite to board approval of courses and seminars for  
323 credit.

324 In developing and proposing regulations under this section,  
325 the board shall give consideration to courses of instruction,  
326 seminars and other appraisal education programs developed by or  
327 under the authority of organizations or associations of  
328 professional real estate appraisers which are utilized by such  
329 organizations or associations for the purpose of awarding real  
330 estate appraisal designations or indicating compliance with the  
331 continuing education requirements of such organizations or  
332 associations.

333 (4) No amendment or repeal of a regulation adopted by the  
334 board pursuant to this section shall operate to deprive a licensed  
335 appraiser or licensed certified real estate appraiser of credit  
336 toward renewal of such appraiser's license for any course of  
337 instruction or seminar that had been completed by such individual  
338 prior to the amendment or repeal of the regulation.

339 **SECTION 8.** Section 73-34-41, Mississippi Code of 1972, is  
340 amended as follows:

341 73-34-41. The commission may investigate at the direction of  
342 the board the actions of an individual licensed under this chapter  
343 or an applicant for licensure or renewal. Upon compliance with  
344 the procedural requirements set forth in this chapter, the board  
345 may revoke or suspend the license or otherwise discipline a  
346 licensed appraiser or licensed certified real estate appraiser, or  
347 deny an application, for any of the acts or omissions set forth in  
348 Section 73-34-35.

349 Upon receipt of information indicating that a licensed  
350 appraiser or a licensed certified real estate appraiser may have  
351 committed a violation under Section 73-34-35, the board may, upon  
352 compliance with the procedural requirements set forth in this  
353 chapter, revoke or suspend the license or otherwise discipline the  
354 licensee, or deny an application, for any of the acts or omissions  
355 set forth in Section 73-34-35.

356           Upon receipt of information indicating that a licensed  
357 appraiser or licensed certified real estate appraiser may have  
358 committed a violation under Section 73-34-35, the commission, at  
359 the direction of the board, may cause one or more of the  
360 investigators on its staff to make an investigation of the facts  
361 to determine whether or not there is evidence of any such  
362 violation. If technical assistance is required, a staff  
363 investigator may consult with not more than two (2) of the voting  
364 members of the board. If a voting member of the board is  
365 consulted and renders assistance in an investigation, such member  
366 shall be excused from service on the board in connection with any  
367 administrative hearing that results from such investigation.

368           In any investigation made by the commission's investigative  
369 staff, the board shall have the power to compel the attendance of  
370 witnesses and the production of books, appraisal documents,  
371 records and other papers, the power to administer oaths, and the  
372 power to take testimony and receive evidence concerning all  
373 matters within its jurisdiction.

374           If an investigation indicates that a licensed appraiser or  
375 licensed certified real estate appraiser has committed a violation  
376 under Section 73-34-35, a formal complaint shall be prepared by  
377 the commission staff at the direction of the board and served upon  
378 such real estate appraiser. This complaint shall require the  
379 accused party to file an answer to the complaint within twenty  
380 (20) days of the date of service.

381           In responding to a complaint filed by the staff of the  
382 commission, the accused party may admit the allegations of the  
383 complaint, deny the allegations of the complaint, or otherwise  
384 plead. Failure to make a timely response shall be deemed an  
385 admission of the allegations of the complaint.

386           Upon completion of the investigation of the complaint, the  
387 board shall set a date, time and place for an administrative

388 hearing on the complaint, or other action deemed appropriate by  
389 the board.

390 **SECTION 9.** Section 73-34-45, Mississippi Code of 1972, is  
391 amended as follows:

392 73-34-45. The commission shall charge and collect  
393 appropriate fees for its services under this chapter. The fees  
394 charged shall not exceed the amounts indicated below and shall be  
395 set by the board.

396 LICENSURE FEES:

397	Application and examination .....	\$225.00
398	Initial and renewal license .....	\$325.00
399	Delinquent renewal penalty .....	100% of renewal fee

400 SERVICES:

401	For each change of address .....	\$ 25.00
402	For each duplicate license .....	\$ 25.00
403	To change status as a licensee from active to inactive ..	\$ 25.00
404	For each bad check received * * * .....	\$ 25.00

405 All fees charged and collected under this chapter shall be  
406 paid by the commission at least once a week, accompanied by a  
407 detailed statement thereof, to the credit of the fund known as the  
408 "Real Estate Appraisal License Fund," hereby created in the State  
409 Treasury. All monies which are collected under this chapter shall  
410 be paid into and credited to such fund for the use of the board in  
411 carrying out the provisions of this Chapter including the payment  
412 of salaries and expenses, printing an annual directory of  
413 licensees, and for educational purposes. The commission shall  
414 submit a monthly statement to the board detailing any expenses  
415 which it bears as a share in the expense of administering this  
416 chapter, for which expenses it shall be reimbursed in the amount  
417 approved by the board. The commission shall prepare an annual  
418 statement of income and expenses related to its appraisal related  
419 administrative function.

420 \* \* \*

421           **SECTION 10.** This act shall take effect and be in force from  
422 and after July 1, 2004.