

By: Senator(s) Flowers, White, Lee (35th),
Doxey, Davis

To: Business and Financial
Institutions; Judiciary,
Division B

SENATE BILL NO. 2697

1 AN ACT TO AMEND SECTION 73-35-31, MISSISSIPPI CODE OF 1972,
2 TO REVISE THE PENALTIES FOR VIOLATIONS OF THE REAL ESTATE BROKERS
3 LICENSE LAW; AND FOR RELATED PURPOSES.

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

5 **SECTION 1.** Section 73-35-31, Mississippi Code of 1972, is
6 amended as follows:

7 73-35-31. (1) Any person or corporation conducting real
8 estate brokerage activities in Mississippi without a Mississippi
9 real estate license as required by Section 73-35-1, or without
10 having executed a cooperative agreement with a licensed
11 Mississippi broker as required by Section 73-35-11, shall, upon
12 conviction of a first violation thereof, if a person, be punished
13 by a fine of not less than Five Thousand Dollars (\$5,000.00) nor
14 more than Ten Thousand Dollars (\$10,000.00), or by imprisonment
15 for a term not to exceed ninety (90) days, or both; and if a
16 corporation, be punished by a fine of not more than Twenty
17 Thousand Dollars (\$20,000.00). Upon conviction of a second or
18 subsequent violation, if a person, he shall be punished by a fine
19 of not less than Ten Thousand Dollars (\$10,000.00) nor more than
20 Twenty Thousand Dollars (\$20,000.00), or by imprisonment for a
21 term not to exceed six (6) months, or both; and if a corporation,
22 be punished by a fine of not less than Fifty Thousand Dollars
23 (\$50,000.00) nor more than Seventy-five Thousand Dollars
24 (\$75,000.00). Any officer or agent of a corporation, or any
25 member or agent of a partnership or association, who shall
26 personally participate in or be accessory to a violation of
27 Section 73-35-1 or 73-35-11 through the unlicensed practice of

28 real estate by such corporation, partnership or association, shall
29 be subject to the penalties herein prescribed for individuals.
30 Fines collected under this provision shall be deposited into the
31 account of the Mississippi Housing Opportunity Foundation for uses
32 consistent with that entity's statutory mission.

33 (2) Any person violating a provision of this chapter other
34 than the violation described in subsection (1), shall, upon
35 conviction of a first violation thereof, if a person, be punished
36 by a fine or not less than Five Hundred Dollars (\$500.00) nor more
37 than One Thousand Dollars (\$1,000.00), or by imprisonment for a
38 term not to exceed ninety (90) days, or both; and if a
39 corporation, be punished by a fine of not more than Two Thousand
40 Dollars (\$2,000.00). Upon conviction of a second or subsequent
41 violation, if a person, shall be punished by a fine of not less
42 than One Thousand Dollars (\$1,000.00) nor more than Two Thousand
43 Dollars (\$2,000.00), or by imprisonment for a term not to exceed
44 six (6) months, or both; and if a corporation, be punished by a
45 fine of not less than Two Thousand Dollars (\$2,000.00) nor more
46 than Five Thousand Dollars (\$5,000.00). Any officer or agent of a
47 corporation, or any member or agent of a partnership or
48 association, who shall personally participate in or be accessory
49 to any violation of this chapter by such corporation, partnership
50 or association, shall be subject to the penalties herein
51 prescribed for individuals.

52 (3) In case any person, partnership, association or
53 corporation shall have received any sum of money, or the
54 equivalent thereto, as commission, compensation or profit by or in
55 consequence of his violation of any provision of this chapter,
56 such person, partnership, association or corporation shall also be
57 liable to a penalty of not less than the amount of the sum of
58 money so received and not more than four (4) times the sum so
59 received, as may be determined by the court, which penalty may be

60 sued for and recovered by any person aggrieved and for his use and
61 benefit, in any court of competent jurisdiction.

62 (4) No fee, commission or other valuable consideration may
63 be paid to a person for real estate brokerage activities as
64 described in subsection (1) of Section 73-35-3 unless the person
65 provides evidence of licensure under the provisions of this
66 chapter or provides evidence of a cooperative agreement provided
67 under the authority of Section 73-35-11.

68 **SECTION 2.** This act shall take effect and be in force from
69 and after July 1, 2005.