

By: Senator(s) Jackson (15th)

To: Business and Financial
InstitutionsSENATE BILL NO. 2605
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 81-18-3, MISSISSIPPI CODE OF 1972, TO
2 CLARIFY THE LICENSED LOCATION AT WHICH A LOAN ORIGINATOR MAY WORK;
3 TO AMEND SECTION 81-18-5, MISSISSIPPI CODE OF 1972, TO CLARIFY
4 THAT PERSONS WHO ENTER INTO NO MORE THAN 12 MISSISSIPPI
5 RESIDENTIAL MORTGAGE LOAN TRANSACTIONS SHALL BE EXEMPT FROM THE
6 MISSISSIPPI MORTGAGE CONSUMER PROTECTION LAW; TO AMEND SECTION
7 81-18-9, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT AN APPLICATION
8 FOR LICENSE UNDER THE CHAPTER SHALL BE MADE THROUGH THE MULTISTATE
9 LICENSING SYSTEM; TO AMEND SECTION 81-18-15, MISSISSIPPI CODE OF
10 1972, TO REQUIRE APPLICANTS TO PAY THE LICENSE FEE THROUGH THE
11 MULTISTATE LICENSING SYSTEM; TO AMEND SECTION 81-18-17,
12 MISSISSIPPI CODE OF 1972, TO REQUIRE AN APPLICATION FOR ANY BRANCH
13 OFFICE TO BE MADE THROUGH THE MULTISTATE LICENSING SYSTEM; TO
14 AMEND SECTION 81-18-19, MISSISSIPPI CODE OF 1972, TO PROHIBIT ANY
15 PERSON FROM ACQUIRING 10% INTEREST IN A LICENSEE UNLESS AN
16 APPLICATION FOR LICENSE IS FILED; TO AMEND SECTION 81-18-23,
17 MISSISSIPPI CODE OF 1972, TO CLARIFY THAT ANNUAL WRITTEN REPORTS
18 SHALL BE FILED BY LICENSEES BEFORE MARCH 31 OF EACH YEAR; TO AMEND
19 SECTION 81-18-61, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT ANY
20 PERSON ENGAGED IN ACTIVITY THAT REQUIRES LICENSURE OR REGISTRATION
21 UNDER THE CHAPTER SHALL UTILIZE THE MULTISTATE LICENSING SYSTEM
22 FOR CERTAIN FILINGS AND SHALL PAY ALL APPLICABLE CHARGES TO
23 UTILIZE THE MULTISTATE LICENSING SYSTEM; TO CREATE A NEW SECTION
24 TO AUTHORIZE THE COMMISSIONER OF BANKING AND CONSUMER FINANCE TO
25 ISSUE SUBPOENAS AND ADMINISTER OATHS FOR THE PURPOSE OF CONDUCTING
26 INVESTIGATIONS, EXAMINATIONS OR OTHER PROCEEDINGS UNDER THE
27 CHAPTER; AND FOR RELATED PURPOSES.

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

29 **SECTION 1.** Section 81-18-3, Mississippi Code of 1972, is
30 amended as follows:

31 81-18-3. For purposes of this chapter, the following terms
32 shall have the following meanings:

33 (a) "Application" means the submission of a borrower's
34 financial information in anticipation of a credit decision,
35 whether written or computer-generated. If the submission does not
36 state or identify a specific property, the submission is an
37 application for a prequalification and not an application for a



38 federally related mortgage loan. The subsequent addition of an
39 identified property to the submission converts the submission to
40 an application for a federally related mortgage loan.

41 (b) "Borrower" means a person who submits an
42 application for a loan secured by a first or subordinate mortgage
43 or deed of trust on a single- to four-family home to be occupied
44 by a natural person.

45 (c) "Branch" means a location of a company in or
46 outside of the state that conducts business as a mortgage broker
47 or mortgage lender. A location shall be considered a branch in
48 any of the following:

49 (i) If the location is used on any type of
50 advertisement;

51 (ii) If any type of record, loan file or
52 application of the company is located at the location, with the
53 exception of unstaffed storage facilities; or

54 (iii) If a consumer is received at the location or
55 is directed to deliver any information by any means to the
56 location in regards to Mississippi residential property.

57 (d) "Commissioner" means the Commissioner of the
58 Mississippi Department of Banking and Consumer Finance.

59 (e) "Commitment" means a statement by a lender required
60 to be licensed under this chapter that sets forth the terms and
61 conditions upon which the lender is willing to make a particular
62 mortgage loan to a particular borrower.

63 (f) "Company" means a licensed mortgage broker or
64 mortgage lender under this chapter.

65 (g) "Control" means the direct or indirect possession
66 of the power to direct or cause the direction of the management
67 and policies of a person, whether through the ownership of voting
68 securities, by contract or otherwise, and shall include
69 "controlling," "controlled by," and "under common control with."



70 (h) "Department" means the Department of Banking and
71 Consumer Finance of the State of Mississippi.

72 (i) "Executive officer" means the chief executive
73 officer, the president, the principal financial officer, the
74 principal operating officer, each vice president with
75 responsibility involving policy-making functions for a significant
76 aspect of a person's business, the secretary, the treasurer, or
77 any other person performing similar managerial or supervisory
78 functions with respect to any organization whether incorporated or
79 unincorporated.

80 (j) "License" means a license to act as a mortgage
81 broker or mortgage lender issued by the department under this
82 chapter.

83 (k) "Licensee" means a person who is required to be
84 licensed as a mortgage broker or mortgage lender under this
85 chapter.

86 (l) "Loan originator" means an individual who is an
87 employee of a mortgage broker or mortgage lender working from one
88 licensed location, whose conduct of the mortgage business is the
89 responsibility of the company, and whose job responsibilities
90 include direct contact with borrowers during the loan origination
91 process, which may include soliciting, negotiating, acquiring,
92 arranging or making mortgage loans for others, assisting with the
93 preparation of loan applications or other documents, quoting loan
94 rates or terms, or providing required disclosures. This
95 individual must work for a licensed company and work from the
96 licensed location with the department. If the loan originator
97 resides and works in Mississippi, then he may work from any
98 licensed Mississippi location. However, an owner of a minimum of
99 ten percent (10%) of a licensed company or the named principal
100 officer on file with the department, which are registered loan
101 originators with the department, may work from any licensed
102 location of the licensed company within the State of Mississippi



103 in the capacity of a loan originator as described in this chapter.
104 The term does not include individuals whose job responsibilities
105 on behalf of a company are solely clerical in nature, which is
106 defined as normal office procedures, not including any duties
107 listed in the definition of "loan originator," or sales
108 representatives of a licensed Mississippi manufactured housing
109 operation who transmits information concerning a sale via mail,
110 courier service, or electronically to a licensee or registered
111 originator.

112 (m) "Loan processor" means an employee of a licensed
113 mortgage broker, mortgage lender or a person exempt from licensure
114 under this chapter and who performs, under the direction and
115 supervision of the mortgage broker, lender, originator or other
116 exempt person, certain clerical duties in connection with
117 residential mortgage loan transactions, which may include
118 collecting financial information and other related documentation
119 that is a part of the mortgage loan application process, ordering
120 verification of employment, verification of deposits, requests for
121 mortgage or other information necessary to process the mortgage
122 loan application. A loan processor may not perform any of the
123 duties of an originator enumerated in paragraph (1), but a loan
124 originator may perform the duties of a loan processor.

125 (n) "Lock-in agreement" means a written agreement
126 stating the terms of the lock-in fee.

127 (o) "Lock-in fee" means a fee collected by a licensee
128 to be paid to a lender to guarantee an interest rate or a certain
129 number of points on a mortgage loan from the lender.

130 (p) "Make a mortgage loan" means to advance funds,
131 offer to advance funds or make a commitment to advance funds to a
132 borrower.

133 (q) "Misrepresent" means to make a false statement of a
134 substantive fact or to engage in, with intent to deceive or



135 mislead, any conduct that leads to a false belief that is material
136 to the transaction.

137 (r) "Mortgage broker" means any person who directly or
138 indirectly or by electronic activity solicits, places or
139 negotiates mortgage loans for others, or offers to solicit, place
140 or negotiate mortgage loans for others that does not close
141 mortgage loans in the company name, does not use its own funds, or
142 who closes mortgage loans in the name of the company, and sells,
143 assigns or transfers the loan to others within forty-eight (48)
144 hours of the closing.

145 (s) "Mortgage lender" means any person who directly or
146 indirectly or by electronic activity originates, makes, funds or
147 purchases or offers to originate, make, or fund or purchase a
148 residential mortgage loan or who services mortgage loans.

149 (t) "Mortgage lending process" means the process
150 through which a person seeks or obtains a mortgage loan,
151 including, but not limited to, solicitation, application,
152 origination, negotiation of terms, third-party provider services,
153 underwriting, signing and closing, and funding of the loan.
154 Documents involved in the mortgage lending process include, but
155 are not limited to, uniform residential loan applications or other
156 loan applications, appraisal reports, HUD-1 settlement statements,
157 supporting personal documentation for loan applications such as
158 W-2 forms, verifications of income and employment, bank
159 statements, tax returns, payroll stubs and any required
160 disclosures.

161 (u) "Mortgage loan" means a loan or agreement to extend
162 credit made to a natural person, which loan is secured by a deed
163 to secure debt, security deed, mortgage, security instrument, deed
164 of trust or other document representing a security interest or
165 loan upon any interest in a lot intended for residential purposes,
166 or single- to four-family residential property located in



167 Mississippi, regardless of where made, including the renewal or
168 refinancing of any loan.

169 (v) "Multistate licensing system" means a system
170 involving one or more states, the District of Columbia or the
171 Commonwealth of Puerto Rico established to facilitate the sharing
172 of regulatory information and the licensing and application
173 processes, by electronic or other means, for mortgage brokers,
174 mortgage lenders and mortgage loan originators.

175 (w) "Natural person" means a human being, as
176 distinguished from an artificial person created by law.

177 (x) "Person" means any individual, sole proprietorship,
178 corporation, limited liability company, partnership, trust or any
179 other group of individuals, however organized.

180 (y) "Principal" means a person who, directly or
181 indirectly, owns or controls an ownership interest of ten percent
182 (10%) or more in a corporation or any other form of business
183 organization, regardless of whether the person owns or controls
184 the ownership interest through one or more persons or one or more
185 proxies, powers of attorney, nominees, corporations, associations,
186 limited liability companies, partnerships, trusts, joint-stock
187 companies, other entities or devises, or any combination thereof.

188 (z) "Principal officer" means an owner or employee of a
189 mortgage broker or mortgage lender who submits documentation of
190 two (2) years' experience directly related to mortgage lending,
191 who registers as a loan originator as defined in this chapter, and
192 who resides within one hundred twenty-five (125) miles of the
193 licensed main office of the company.

194 (aa) "Records" or "documents" means any item in hard
195 copy or produced in a format of storage commonly described as
196 electronic, imaged, magnetic, microphotographic or otherwise, and
197 any reproduction so made shall have the same force and effect as
198 the original thereof and be admitted in evidence equally with the
199 original.



200 (bb) "Registrant" means any person required to register
201 under Section 81-18-5(1).

202 (cc) "Residential immovable property" means property
203 such as, but not limited to, vinyl siding, roofs, pools, spas,
204 appliances, windows, home additions, landscaping, fencing, etc.

205 (dd) "Residential property" means improved real
206 property or lot used or occupied, or intended to be used or
207 occupied, as a residence by a person.

208 (ee) "Service a mortgage loan" means the collection or
209 remittance for another, the right to collect or remit for another,
210 or the collection of the company's own loan portfolio, whether or
211 not the company originated, funded or purchased the loan in the
212 secondary market, of payments of principal and interest, trust
213 items such as insurance and taxes, and any other payments pursuant
214 to a mortgage loan.

215 **SECTION 2.** Section 81-18-5, Mississippi Code of 1972, is
216 amended as follows:

217 81-18-5. The following persons are not subject to the
218 provisions of this chapter, unless otherwise provided in this
219 chapter:

220 (a) Any person authorized to engage in business as a
221 bank holding company or as a financial holding company, or any
222 wholly owned subsidiary thereof; however, the wholly owned
223 subsidiary must file a notification statement that includes the
224 following information:

225 (i) The name or names under which business will be
226 conducted in Mississippi;

227 (ii) The name and address of the parent financial
228 institution;

229 (iii) The name, mailing address, telephone number,
230 and fax number of the person or persons responsible for handling
231 consumer inquiries and complaints;



232 (iv) The name and address of the registered agent
233 for service of process in Mississippi;

234 (v) A statement signed by the president or chief
235 executive officer of the entity stating that the entity will
236 receive and process consumer inquiries and complaints promptly,
237 fairly, and in compliance with all applicable laws; and

238 (vi) A fee of One Hundred Dollars (\$100.00).

239 The notification statement must be filed before beginning to
240 conduct a mortgage business in this state and must be updated by
241 the entity as the information changes. Any entity that fails to
242 file the notification statement or keep the information current
243 will be immediately subject to the licensing requirements of
244 Section 81-18-9. This notification statement must be renewed
245 annually as of December 31 of each year with a renewal fee of One
246 Hundred Dollars (\$100.00).

247 (b) Any person authorized to engage in business as a
248 bank, credit card bank, savings bank, savings institution, savings
249 and loan association, building and loan association, trust company
250 or credit union under the laws of the United States, any state or
251 territory of the United States, or the District of Columbia, the
252 deposits of which are federally insured, or any wholly owned
253 subsidiary thereof.

254 (c) Any lender holding a license under the Small Loan
255 Regulatory Law (Section 75-67-101 et seq.) and the Small Loan
256 Privilege Tax Law (Section 75-67-201 et seq.).

257 (d) Any attorney licensed to practice law in
258 Mississippi who provides mortgage loan services incidental to the
259 practice of law and who is not a principal of a company as defined
260 under this chapter.

261 (e) A real estate company or licensed real estate
262 salesperson or broker who is actively engaged in the real estate
263 business and who does not receive any fee, commission, kickback,



264 rebate or other payment for directly or indirectly negotiating,
265 placing or finding a mortgage for others.

266 (f) Any person performing any act relating to mortgage
267 loans under order of any court.

268 (g) During the licensing period provided in this
269 chapter, including those acting as loan originators: Any person
270 who is employed by and represents a Mississippi manufactured
271 housing operation and who makes not more than twelve (12)
272 Mississippi residential mortgage loans on manufactured housing and
273 land transactions, modular homes or any combination thereof; any
274 person who engages in owner-financing of not more than twelve (12)
275 Mississippi residential mortgage loans; or any person who
276 contracts for or is engaged in the financing of a consumer loan
277 secured by a mortgage on residential immovable property in not
278 more than twelve (12) Mississippi residential mortgage
279 loans * * *. The aforementioned twelve (12) transactions are
280 cumulative to any combination of operations owned or controlled by
281 any one individual, sole proprietorship, corporation, limited
282 liability company, partnership, trust or any other group of
283 individuals, however organized, during the licensing period
284 provided in this chapter. However, within thirty (30) days of
285 loan closure, the person shall submit to the commissioner a fee of
286 Ten Dollars (\$10.00), which is not chargeable to the consumer, and
287 written notification containing such loan information as required
288 by the commissioner, seeking approval to engage in a residential
289 mortgage transaction without first complying with the licensing
290 provisions of this chapter. Any person who enters into more than
291 twelve (12) of those transactions in the licensing period provided
292 in this chapter must be licensed according to the procedures
293 prescribed in this chapter. The fees paid for registration during
294 a licensing period will be deducted from the cost of an initial
295 license. This paragraph (g) shall not include persons solely
296 involved in the making of a mortgage loan on modular homes.



297 (h) Any natural person who purchases mortgage loans
298 from a licensed mortgage broker or mortgage lender solely as an
299 investment and who is not in the business of making or servicing
300 mortgage loans.

301 (i) Any person who makes a mortgage loan to his or her
302 employee as an employment benefit.

303 (j) The United States of America, the State of
304 Mississippi or any other state, and any agency, division or
305 corporate instrumentality thereof including, but not limited to,
306 the Mississippi Home Corporation, Rural Economic Community
307 Development (RECD), Habitat for Humanity, the Federal National
308 Mortgage Association (FNMA), the Federal Home Loan Mortgage
309 Company (FHLMC), the Government National Mortgage Association
310 (GNMA), the United States Department of Housing and Urban
311 Development (HUD), the Federal Housing Administration (FHA), the
312 Department of Veterans Affairs (VA), the Farmers Home
313 Administration (FmHA), and the Federal Land Banks and Production
314 Credit Associations.

315 (k) Nonprofit corporations exempt from federal taxation
316 under Section 501(c) of the Internal Revenue Code making mortgage
317 loans to promote home ownership or home improvements for the
318 disadvantaged.

319 (l) Loan originators as defined under Section
320 81-18-3 * * * are exempt from the licensing requirements of this
321 chapter except for Sections 81-18-9(3)(d), 81-18-13, 81-18-15(3),
322 81-18-17, 81-18-37 and 81-18-43, but shall register with the
323 department as a loan originator through the multistate licensing
324 system. Any person required to register under this paragraph
325 shall register initially with the department and thereafter file
326 an application for renewal of registration with the department on
327 or before December 31 of each year providing the department with
328 such information as the department may prescribe by regulation,
329 including, but not limited to, the business address where the



330 person engages in any business activities covered by this chapter,
331 proof of at least one (1) year of experience directly in mortgage
332 lending within the two (2) years prior to the date of application,
333 the residential address of the applicant and a telephone number
334 that customers may use to contact the person. If the person does
335 not meet the experience requirement, then he or she shall complete
336 a pre-licensing course consisting of a minimum of twenty-four (24)
337 hours of education as approved by the Mississippi Association of
338 Mortgage Brokers, the National Association of Mortgage Brokers,
339 the Mortgage Bankers Association or the Mortgage Bankers
340 Association of Mississippi for the experience waiver. If the
341 experience did not occur within the State of Mississippi, then the
342 department shall require the person to complete an education
343 course of a minimum of four (4) hours covering the Mississippi
344 Mortgage Consumer Protection Law and to pass an examination
345 covering the course material. This initial registration of a loan
346 originator shall be accompanied by a fee of One Hundred Dollars
347 (\$100.00). Annual renewals of this registration shall require a
348 fee of Fifty Dollars (\$50.00). No person required to register
349 under this paragraph shall transact business in this state
350 directly or indirectly as a loan originator unless that person is
351 registered with the department. The loan originator shall display
352 the current, original registration issued by the department in the
353 licensed office in which he or she is assigned.

354 **SECTION 3.** Section 81-18-9, Mississippi Code of 1972, is
355 amended as follows:

356 81-18-9. (1) An application for a license under this
357 chapter shall be made through the multistate licensing system and
358 in the form as the department may prescribe.

359 (2) The application shall include at least the following:

360 (a) The legal name, residence, and business address of
361 the applicant and, if applicable the legal name, residence and



362 business address of every principal, together with the résumé of
363 the applicant and of every principal of the applicant.

364 (b) The legal name of the mortgage broker or mortgage
365 lender in addition to the name under which the applicant will
366 conduct business in the state, neither of which may be already
367 assigned to a licensed mortgage broker or mortgage lender.

368 (c) The complete address of the applicant's main
369 office, branch office(s) and any other locations at which the
370 applicant will engage in any business activity covered by this
371 chapter.

372 (d) A copy of the certificate of incorporation, if a
373 Mississippi corporation.

374 (e) Documentation satisfactory to the department as to
375 a certificate of existence of authority to transact business
376 lawfully in Mississippi, if an individual, sole proprietorship,
377 limited liability company, partnership, trust or any other group
378 of individuals, however organized.

379 (f) If a foreign corporation, a copy of a certificate
380 of authority to conduct business in Mississippi and the address of
381 the main corporate office of the foreign corporation.

382 (g) Documentation of a minimum of two (2) years'
383 experience directly in mortgage lending by a person named as the
384 principal officer of the company. This experience shall have been
385 within the previous four (4) years from the date of application.
386 If the proof of experience is with a company that is located
387 outside of Mississippi, then the principal officer shall be
388 required to complete four (4) hours of approved courses on the
389 Mississippi Mortgage Consumer Protection Law. The principal
390 officer shall also register as a loan originator with the
391 department. Evidence shall include, where applicable:

392 (i) Copies of business licenses issued by
393 governmental agencies.



394 (ii) Written letters of employment history of the
395 person filing the application for at least two (2) years before
396 the date of the filing of an application including, but not
397 limited to, job descriptions, length of employment, names,
398 addresses and phone numbers for past employers.

399 (iii) A listing of wholesale lenders with whom the
400 applicant has done business with in the past two (2) years either
401 directly as a mortgage broker or loan originator.

402 (iv) Any other data and pertinent information as
403 the department may require with respect to the applicant, its
404 directors, principals, trustees, officers, members, contractors or
405 agents. A résumé alone shall not be sufficient proof of
406 employment history.

407 (3) The application shall be filed together with the
408 following:

409 (a) The license fee specified in Section 81-18-15;

410 (b) A completed form signed by an owner, chief
411 executive officer or named principal officer authorizing the
412 department to obtain information from outside sources for each
413 person, executive officer and employee;

414 (c) An original or certified copy of a surety bond in
415 favor of the State of Mississippi for the use, benefit, and
416 indemnity of any person who suffers any damage or loss as a result
417 of the company's breach of contract or of any obligation arising
418 therefrom or any violation of law; and

419 (d) Except as provided in this paragraph (d), a set of
420 fingerprints from any local law enforcement agency from the
421 following applicants:

422 (i) All persons operating as a sole proprietorship
423 that plan to conduct a mortgage brokering or lending business in
424 the State of Mississippi;



425 (ii) Partners in a partnership or principal owners
426 of a limited liability company that own at least ten percent (10%)
427 of the voting shares of the company;

428 (iii) Any shareholders owning ten percent (10%) or
429 more of the outstanding shares of the corporation; and

430 (iv) All loan originators.

431 **SECTION 4.** Section 81-18-15, Mississippi Code of 1972, is
432 amended as follows:

433 81-18-15. (1) Each license shall remain in full force and
434 effect until relinquished, suspended, revoked or expired. With
435 each initial application for a license to operate as a mortgage
436 broker or mortgage lender, the applicant shall pay through the
437 multistate licensing system to the commissioner a license fee of
438 Seven Hundred Fifty Dollars (\$750.00), and on or before December
439 31 of each year thereafter, an annual renewal fee of Four Hundred
440 Seventy-five Dollars (\$475.00). If the annual renewal fee remains
441 unpaid, the license shall expire, but not before December 31 of
442 any year for which the annual renewal fee has been paid. If any
443 person engages in business as provided for in this chapter without
444 paying the license fee provided for in this subsection before
445 commencing business or before the expiration of the person's
446 current license, as the case may be, then the person shall be
447 liable for the full amount of the license fee, plus a penalty in
448 an amount not to exceed Twenty-five Dollars (\$25.00) for each day
449 that the person has engaged in such business without a license or
450 after the expiration of a license. All licensing fees and
451 penalties shall be paid into the Consumer Finance Fund of the
452 department. If the application is withdrawn or denied, the
453 application fee is not refundable.

454 (2) Any licensee making timely and proper application for a
455 license renewal shall be permitted to continue to operate under
456 its existing license until its application is approved or
457 rejected, but shall not be released from or otherwise indemnified



458 for any act covered by this chapter or for any penalty incurred
459 under this chapter as a result of any violation of this chapter or
460 regulations adopted under this chapter, pending final approval or
461 disapproval of the application for the license renewal.

462 (3) Each application for licensing renewal or registration
463 renewal shall include evidence of the satisfactory completion of
464 at least twelve (12) hours of approved continuing education in
465 primary and subordinated financing transactions by the principal
466 officer on file with the department and registered loan
467 originators. Two (2) of the twelve (12) hours shall consist of
468 instruction on the Mississippi Mortgage Consumer Protection Law
469 and shall be approved by the department once the course is
470 approved by the Mississippi Association of Mortgage Brokers, the
471 National Association of Mortgage Brokers, the Mortgage Bankers
472 Association or the Mortgage Bankers Association of Mississippi.
473 For purposes of this subsection (3), approved courses shall be
474 those as approved by the Mortgage Bankers Association, the
475 National Association of Mortgage Brokers, the Mississippi
476 Association of Mortgage Brokers or the Mortgage Bankers
477 Association of Mississippi, who shall submit to the department a
478 listing of approved schools, courses, programs and special
479 training sessions. However, each application for licensing
480 renewal or registration renewal of manufactured housing licensees
481 or originators shall include evidence of the satisfactory
482 completion of at least twelve (12) hours of continuing education,
483 of which eight (8) hours must be approved by the Commissioner of
484 Insurance and four (4) hours consisting of courses in primary and
485 subordinated financing transactions must be approved by the
486 Mississippi Manufactured Housing Association, which shall submit
487 to the department a listing of those approved schools, courses,
488 programs and special training sessions. A manufactured housing
489 licensee or loan originator may submit evidence of completion of
490 courses that have been approved by the Mortgage Bankers



491 Association, the National Association of Mortgage Brokers, the
492 Mississippi Association of Mortgage Brokers or the Mortgage
493 Bankers Association of Mississippi to satisfy the four-hour
494 requirement of courses in primary and subordinated financing
495 transactions.

496 **SECTION 5.** Section 81-18-17, Mississippi Code of 1972, is
497 amended as follows:

498 81-18-17. (1) Each license or registration issued under
499 this chapter shall state the address of the licensee's principal
500 place of business, the registrant's assigned licensed location and
501 the name of the licensee or registrant.

502 (2) A licensee or registrant shall post the original license
503 or original registration in a conspicuous place in the assigned
504 place of business of the licensee.

505 (3) A license or registration may not be transferred or
506 assigned.

507 (4) No licensee or registrant shall transact business under
508 any name other than that designated in the license or
509 registration.

510 (5) Each licensee shall notify the department, in writing,
511 of any change in the address of its principal place of business or
512 registered loan originator or of any additional location of
513 business or any change of officer, director or principal of the
514 licensee, or registered loan originator within thirty (30) days of
515 the change.

516 (6) No licensee shall open a branch office in this state or
517 a branch office outside this state from which the licensee has
518 direct contact with consumers regarding origination or brokering
519 Mississippi residential property, without prior approval of the
520 department. An application for any branch office shall be made
521 through the multistate licensing system on a form prescribed by
522 the department, which shall include at least evidence of
523 compliance with subsection (1) of Section 81-18-25 as to that



524 branch and shall be accompanied by payment of a nonrefundable
525 application fee of One Hundred Dollars (\$100.00) and at least one
526 (1) loan originator application registered at that branch office.
527 The application shall be approved unless the department finds that
528 the applicant has not conducted business under this chapter in
529 accordance with law. The application shall be deemed approved if
530 notice to the contrary has not been mailed by the department to
531 the applicant within thirty (30) days of the date that the
532 complete application is received by the department. After
533 approval, the applicant shall give written notice to the
534 department within ten (10) days of the commencement of business at
535 the branch office. Each branch office that currently holds a
536 branch license shall renew that branch license before the
537 expiration date of the main company license, on or before December
538 31. The license renewal shall be on a form prescribed by the
539 department with a nonrefundable renewal application fee of
540 Twenty-five Dollars (\$25.00).

541 **SECTION 6.** Section 81-18-19, Mississippi Code of 1972, is
542 amended as follows:

543 81-18-19. (1) Except as provided in this section, no person
544 shall acquire directly or indirectly ten percent (10%) or more of
545 the voting shares of a corporation or ten percent (10%) or more of
546 the ownership of any other entity licensed to conduct business
547 under this chapter unless it first files an application in
548 accordance with the requirements prescribed in Section 81-18-9.

549 (2) Upon the filing and investigation of an application, the
550 department shall permit the applicant to acquire the interest in
551 the licensee if it is satisfied and finds that the applicant and
552 its members, if applicable, its directors and officers, if a
553 corporation, and any proposed new directors and officers have
554 provided its surety bond and have the character, reputation and
555 experience to warrant belief that the business will be operated
556 fairly and in accordance with the law. If the application is



557 denied, the department shall notify the applicant of the denial
558 and the reasons for the denial.

559 (3) A decision of the department denying a license or
560 registration, original or renewal shall be conclusive, except that
561 the applicant may seek judicial review in the Chancery Court of
562 the First Judicial District of Hinds County, Mississippi.

563 (4) The provisions of this section do not apply to the
564 following, subject to notification as required in this section:

565 (a) The acquisition of an interest in a licensee
566 directly or indirectly including an acquisition by merger or
567 consolidation by or with a person registered under this chapter or
568 exempt from this chapter under Section 81-18-5.

569 (b) The acquisition of an interest in a licensee
570 directly or indirectly including an acquisition by merger or
571 consolidation by or with a person affiliated through common
572 ownership with the licensee.

573 (c) The acquisition of an interest in a licensee by a
574 person by bequest, device, gift or survivorship or by operation of
575 law.

576 (5) A person acquiring an interest in a licensee in a
577 transaction that is requesting exemption from filing an
578 application for approval of the application shall send a written
579 request to the department for an exemption within thirty (30) days
580 before the closing of the transaction.

581 **SECTION 7.** Section 81-18-23, Mississippi Code of 1972, is
582 amended as follows:

583 81-18-23. (1) Each company shall annually, on or before
584 March 31, file a written report with the department containing the
585 December 31 information that the department may reasonably require
586 concerning the company's business and operations during the
587 preceding calendar year. The report shall be made in the form
588 prescribed by the department.



589 (2) Any company that fails to file with the department by
590 March 31 the report required by this section shall be subject to a
591 late penalty of Ten Dollars (\$10.00) for each day after March 31
592 the report is delinquent, but in no event shall the aggregate of
593 late penalties exceed Two Hundred Dollars (\$200.00).

594 (3) The department, in its discretion, may relieve any
595 company from the payment of any penalty, in whole or in part, for
596 good cause.

597 (4) If a company fails to pay a penalty from which it has
598 not been relieved, the department may maintain an action at law to
599 recover the penalty.

600 (5) Within fifteen (15) days of the occurrence of any of the
601 following events, a company shall file a written report with the
602 commissioner describing the event and its expected impact on the
603 activities of the company in this state:

604 (a) The filing for bankruptcy or reorganization by the
605 company;

606 (b) The institution of revocation or suspension
607 proceedings against the company by any state or governmental
608 authority;

609 (c) Any felony indictment of the company or any of its
610 directors, executive officers, principal officer or loan
611 originators;

612 (d) Any felony conviction of the company or any of its
613 directors, executive officers, principal officer or loan
614 originators; or

615 (e) Any misdemeanor conviction, in which fraud is an
616 essential element, of any of the company's directors, executive
617 officers, principal officer or loan originators.

618 (6) If the company, owner, principal officer of a company or
619 registered loan originator is involved in a civil action
620 concerning the company, then the person shall notify the



621 commissioner in writing within sixty (60) days after the initial
622 filing of the civil action.

623 **SECTION 8.** Section 81-18-61, Mississippi Code of 1972, is
624 amended as follows:

625 81-18-61. (1) The Legislature finds that a uniform
626 multistate administration of a multistate licensing system for
627 mortgage brokers, mortgage lenders and mortgage loan originators
628 is consistent with both the public interest and the provisions of
629 this chapter; therefore, the department may participate in such a
630 system whereby each requirement is consistent with both the public
631 interest and the provisions of this chapter. These new
632 requirements shall include criminal background checks by the FBI
633 and the Mississippi Department of Public Safety.

634 (2) Nothing in this section shall authorize the commissioner
635 to require any person exempt from licensure under the Mississippi
636 Mortgage Consumer Protection Law to participate in the multistate
637 licensing system.

638 (3) Except for the commissioner, or his designee, no person
639 shall be authorized to obtain information from the multistate
640 licensing database that they could not otherwise have obtained
641 prior to the state's adoption of the multistate licensing system
642 under then existing state law. No information obtained from the
643 multistate licensing system shall be admissible as evidence in, or
644 used to initiate, a civil proceeding in this state unless such
645 information would have been available prior to the state's
646 adoption of the multistate licensing system under then existing
647 law.

648 (4) The commissioner shall notify the multistate licensing
649 system if the system adopts or intends to adopt a notification
650 policy regarding privacy, data security, and security breach that
651 are inconsistent with any applicable Mississippi laws.

652 (5) Any person engaged in activity that requires licensure
653 or registration pursuant to this chapter shall utilize the



654 multistate licensing system for application, renewal, amendment,
655 surrender and any other activity as the commissioner may require,
656 and shall pay all applicable charges to utilize the multistate
657 licensing system, including the processing charges established by
658 the administrator of the multistate licensing system, in addition
659 to any fees required under this chapter.

660 **SECTION 9.** (1) For the purpose of conducting
661 investigations, examinations or other proceedings under this
662 chapter, the commissioner or his designee may issue subpoenas to
663 any individual, person or other entity for the production of all
664 books, papers, records, files, documents or other things, and may
665 subpoena and compel the attendance of witnesses to give testimony,
666 and may administer oaths. Subpoenas as herein provided may be
667 served either by personal process or by registered mail, and upon
668 service shall command attendance of such witnesses, and/or
669 production of such papers and documents, at the time and place so
670 specified.

671 (2) Any person or entity who fails or refuses to comply with
672 a subpoena issued hereunder may be assessed by the commissioner a
673 civil penalty of not more than Five Hundred Dollars (\$500.00) for
674 each day of noncompliance, and any privileges or licenses issued
675 by the commissioner to the person or entity may be suspended for
676 not more than six (6) months. In addition to the civil penalty,
677 the commissioner shall be entitled to the assistance of the
678 chancery court or the chancellor in vacation, which, on petition
679 by the commissioner or his designee, shall issue ancillary
680 subpoenas and petitions and may punish as for contempt of court in
681 the event of noncompliance therewith, and assess attorneys' fees
682 and costs, if deemed appropriate.

683 **SECTION 10.** This act shall take effect and be in force from
684 and after its passage.

