

By: Senator(s) Frazier

To: Business and Financial  
Institutions

SENATE BILL NO. 2847

1 AN ACT TO AMEND SECTIONS 73-35-103 AND 73-35-105, MISSISSIPPI  
2 CODE OF 1972, TO AUTHORIZE INTEREST ON CERTAIN REAL ESTATE BROKER  
3 ESCROW ACCOUNTS TO BE PAYABLE TO ANY LOCAL AFFILIATE OF HABITAT  
4 FOR HUMANITY INTERNATIONAL, INC.; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 73-35-103, Mississippi Code of 1972, is  
7 amended as follows:

8 73-35-103. As used in Sections 73-35-101 through 73-35-105,  
9 the following terms shall have the meanings ascribed herein unless  
10 the context clearly indicates otherwise:

11 (a) "Real estate broker" or "broker" means an  
12 individual, partnership or corporation licensed pursuant to  
13 Section 73-35-1 et seq., and as defined under Section 73-35-3(1).

14 (b) "IREBEA" means the program created and governed by  
15 Sections 73-35-101 through 73-35-105.

16 (c) "Interest earnings" means the total interest  
17 earnings generated by the IREBEA at each individual financial  
18 institution.

19 (d) "Local affiliate of Habitat for Humanity,  
20 International, Inc.," means an independently run 501(c) (3)  
21 organization that acts in partnership with and on behalf of  
22 Habitat for Humanity, International, Inc., to coordinate all  
23 aspects of Habitat home building in a specific geographical area.

24 **SECTION 2.** Section 73-35-105, Mississippi Code of 1972, is  
25 amended as follows:

26 73-35-105. (1) The IREBEA program shall be a voluntary  
27 program based upon willing participation by real estate brokers,



28 whether proprietorships, partnerships or professional  
29 corporations.

30 (2) IREBEA shall apply to all clients or customers of the  
31 participating brokers whose funds on deposit are either nominal in  
32 amount or to be held for a short period of time.

33 (3) The following principles shall apply to clients' or  
34 customers' funds which are held by brokers who elect to  
35 participate in IREBEA:

36 (a) No earnings on the IREBEA accounts may be made  
37 available to or utilized by a broker.

38 (b) Upon the request of the client or customer,  
39 earnings may be made available to the client whenever possible  
40 upon deposited funds which are neither nominal in amount nor to be  
41 held for a short period of time; however, traditional  
42 broker-client or broker-customer relationships do not compel  
43 brokers either to invest clients' or customers' funds or to advise  
44 clients or customers to make their funds productive.

45 (c) Clients' or customers' funds which are nominal in  
46 amount or to be held for a short period of time shall be retained  
47 in an interest bearing checking or savings trust account with the  
48 interest, less any service charge or fees, made payable at least  
49 quarterly to any local affiliate of Habitat for Humanity,  
50 International, Inc. \* \* \* A separate accounting shall be made  
51 annually for all funds received.

52 (d) The broker shall select in writing that the local  
53 affiliate of Habitat for Humanity, International, Inc., shall be  
54 the beneficiary of such fund for the interest earnings on such  
55 fund.

56 (e) The determination of whether clients' or customers'  
57 funds are nominal in amount or to be held for a short period of  
58 time rests in the sound judgment of each broker, and no charge of  
59 ethical impropriety or other breach of professional conduct shall  
60 attend a broker's exercise of judgment in that regard.



61 (f) Notification to clients or customers whose funds  
62 are nominal in amount or to be held for a short period of time is  
63 unnecessary for those brokers who choose to participate in the  
64 program. Participation in the IREBEA program is accomplished by  
65 the broker's written notification to an authorized financial  
66 institution. That communication shall contain an expression of  
67 the broker's desire to participate in the program and, if the  
68 institution has not already received appropriate notification,  
69 advice regarding the Internal Revenue Service's approval of the  
70 taxability of earned interest or dividends to a local affiliate of  
71 Habitat for Humanity International, Inc.

72 (4) The following principles shall apply to those clients'  
73 or customers' funds held in trust accounts by brokers who elect  
74 not to participate in IREBEA:

75 (a) No earnings from the funds may be made available to  
76 any broker.

77 (b) Upon the request of a client or customer, earnings  
78 may be made available to the client or customer whenever possible  
79 upon deposited funds which are neither nominal in amount nor to be  
80 held for a short period of time; however, traditional  
81 broker-client or broker-customer relationships do not compel  
82 brokers either to invest clients' or customers' funds or to advise  
83 clients or customers to make their funds productive.

84 (c) Clients' or customers' funds which are nominal in  
85 amount or to be held for short periods of time, and for which  
86 individual income generation allocation is not arranged with a  
87 financial institution, shall be retained in a noninterest-bearing  
88 demand trust account.

89 (d) The determination of whether clients' or customers'  
90 funds are nominal in amount or to be held for a short period of  
91 time rests in the sound judgment of each broker, and no charge of  
92 ethical impropriety or other breach of professional conduct shall  
93 attend a broker's exercise of judgment in that regard.



94 \* \* \*

95 (5) The Mississippi Real Estate Commission shall adopt  
96 appropriate and necessary rules in compliance with the provisions  
97 of Sections 73-35-101 through 73-35-105.

98 **SECTION 3.** This act shall take effect and be in force from  
99 and after its passage.

