

By: Senator(s) Simmons (12th), Hickman

To: Judiciary, Division B

SENATE BILL NO. 2266

1 AN ACT TO AMEND SECTION 99-19-71, MISSISSIPPI CODE OF 1972,
 2 TO PROVIDE THAT ANY PERSON WHO HAS BEEN CONVICTED OF POSSESSION OF
 3 MARIJUANA WHERE THE AMOUNT OF MARIJUANA WAS EQUAL TO OR LESS THAN
 4 THE LEGAL LIMIT OF POSSESSION FOR MEDICAL CANNABIS MAY PETITION
 5 THE COURT IN WHICH THE CONVICTION WAS HAD FOR AN ORDER TO EXPUNGE
 6 ANY SUCH CONVICTION FROM ALL PUBLIC RECORDS; TO PROVIDE THAT THE
 7 PETITION AUTHORIZED IN THIS SUBSECTION MAY BE FILED WITHOUT DELAY;
 8 TO AMEND SECTIONS 25-7-25 AND 81-18-9, MISSISSIPPI CODE OF 1972,
 9 TO MAKE MINOR, NONSUBSTANTIVE CHANGES TO CONFORM; AND FOR RELATED
 10 PURPOSES.

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

12 **SECTION 1.** Section 99-19-71, Mississippi Code of 1972, is
 13 amended as follows:

14 99-19-71. (1) Any person who has been convicted of a
 15 misdemeanor that is not a traffic violation, and who is a first
 16 offender, may petition the justice, county, circuit or municipal
 17 court in which the conviction was had for an order to expunge any
 18 such conviction from all public records.

19 (2) (a) Except as otherwise provided in this subsection, a
 20 person who has been convicted of a felony and who has paid all
 21 criminal fines and costs of court imposed in the sentence of
 22 conviction may petition the court in which the conviction was had



23 for an order to expunge one (1) conviction from all public records
24 five (5) years after the successful completion of all terms and
25 conditions of the sentence for the conviction upon a hearing as
26 determined in the discretion of the court; however, a person is
27 not eligible to expunge a felony classified as:

28 (i) A crime of violence as provided in Section
29 97-3-2;

30 (ii) Arson, first degree as provided in Sections
31 97-17-1 and 97-17-3;

32 (iii) Trafficking in controlled substances as
33 provided in Section 41-29-139;

34 (iv) A third, fourth or subsequent offense DUI as
35 provided in Section 63-11-30(2)(c) and (2)(d);

36 (v) Felon in possession of a firearm as provided
37 in Section 97-37-5;

38 (vi) Failure to register as a sex offender as
39 provided in Section 45-33-33;

40 (vii) Voyeurism as provided in Section 97-29-61;

41 (viii) Witness intimidation as provided in Section
42 97-9-113;

43 (ix) Abuse, neglect or exploitation of a
44 vulnerable person as provided in Section 43-47-19; or

45 (x) Embezzlement as provided in Sections 97-11-25
46 and 97-23-19.



47 A person is eligible for only one (1) felony expunction under
48 this paragraph. For the purposes of this section, the terms "one
49 (1) conviction" and "one (1) felony expunction" mean and include
50 all convictions that arose from a common nucleus of operative
51 facts as determined in the discretion of the court.

52 (b) The petitioner shall give ten (10) days' written
53 notice to the district attorney before any hearing on the
54 petition. In all cases, the court wherein the petition is filed
55 may grant the petition if the court determines, on the record or
56 in writing, that the applicant is rehabilitated from the offense
57 which is the subject of the petition. In those cases where the
58 court denies the petition, the findings of the court in this
59 respect shall be identified specifically and not generally.

60 (3) Any person who has been convicted of possession of
61 marijuana under Section 41-29-139 where the amount of marijuana
62 was equal to or less than the legal limit of possession for
63 medical cannabis as provided in Chapter 137, Title 41, Mississippi
64 Code of 1972 may petition the court in which the conviction was
65 had for an order to expunge any such conviction from all public
66 records. The petition authorized in this subsection may be filed
67 without delay upon the effective date of this act.

68 (* * *4) Upon entering an order of expunction under this
69 section, a nonpublic record thereof shall be retained by the
70 Mississippi Criminal Information Center solely for the purpose of
71 determining whether, in subsequent proceedings, the person is a



72 first offender. The order of expunction shall not preclude a
73 district attorney's office from retaining a nonpublic record
74 thereof for law enforcement purposes only. The existence of an
75 order of expunction shall not preclude an employer from asking a
76 prospective employee if the employee has had an order of
77 expunction entered on his behalf. The effect of the expunction
78 order shall be to restore the person, in the contemplation of the
79 law, to the status he occupied before any arrest or indictment for
80 which convicted. No person as to whom an expunction order has
81 been entered shall be held thereafter under any provision of law
82 to be guilty of perjury or to have otherwise given a false
83 statement by reason of his failure to recite or acknowledge such
84 arrest, indictment or conviction in response to any inquiry made
85 of him for any purpose other than the purpose of determining, in
86 any subsequent proceedings under this section, whether the person
87 is a first offender. A person as to whom an order has been
88 entered, upon request, shall be required to advise the court, in
89 camera, of the previous conviction and expunction in any legal
90 proceeding wherein the person has been called as a prospective
91 juror. The court shall thereafter and before the selection of the
92 jury advise the attorneys representing the parties of the previous
93 conviction and expunction.

94 (* * *5) Upon petition therefor, a justice, county, circuit
95 or municipal court shall expunge the record of any case in which
96 an arrest was made, the person arrested was released and the case



97 was dismissed or the charges were dropped or there was no
98 disposition of such case, or the person was found not guilty at
99 trial.

100 (* * *6) No public official is eligible for expunction
101 under this section for any conviction related to his official
102 duties.

103 **SECTION 2.** Section 25-7-25, Mississippi Code of 1972, is
104 amended as follows:

105 25-7-25. (1) Costs and fees in the justice court shall be
106 charged as follows and shall be paid in advance to the clerk of
107 the justice court in accordance with the provisions of Section
108 9-11-10:

109 (a) A uniform total fee in all civil cases, whether
110 contested or uncontested, which shall include all services in
111 connection therewith, except as hereinafter stated, each....\$25.00

112 (b) For more than one (1) defendant, for service of
113 process on each defendant..... 5.00

114 (c) After final judgment has been enrolled, further
115 proceedings involving levy of execution on judgments, and
116 attachment and garnishment proceedings..... 15.00

117 (d) For all services in connection with the issuance of
118 a peace bond..... 25.00

119 (e) For celebrating a marriage, and certificate
120 thereof..... 10.00

121 (f) Commission to take depositions..... 5.00



122 (g) Appeal with proceedings and bond..... 5.00

123 (h) A clerk's fee to be collected in all criminal cases
124 in which the defendant is convicted, as follows:

125 (i) For all violations in Title 63 other than
126 driving under the influence of intoxicating liquor or reckless
127 driving..... 5.00

128 (ii) All other criminal cases..... 25.00

129 (2) The justice court shall have the power to impose a fee
130 not to exceed Fifty Dollars (\$50.00) for an * * * expunction or
131 dismissal of any criminal affidavit, complaint or charge.

132 (3) In addition to the salary provided for in subsection (1)
133 of Section 25-3-36, each justice court judge may receive a fee of
134 not more than Twenty-five Dollars (\$25.00) for each marriage
135 ceremony he performs in the courtroom or offices of the justice
136 court at any time the courtroom or offices are open to the public.
137 This fee shall be paid by the parties to the marriage. Each
138 justice court judge may receive money or gratuities for marriage
139 ceremonies performed outside of and away from the courtroom and
140 the offices of the justice court, that the parties to the marriage
141 request to have performed at any time the courtroom or offices of
142 the justice court are closed. These monies or gratuities, in an
143 amount agreed upon by the parties to the marriage, are not
144 considered fees for the justice court and are not subject to the
145 requirements set forth in the provisions of Section 9-11-10.



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

148 81-18-9. (1) Applicants for a license shall apply in a form
149 as prescribed by the commissioner. Each such form shall contain
150 content as set forth by rule, regulation, instruction or procedure
151 of the commissioner and may be changed or updated as necessary by
152 the commissioner in order to carry out the purposes of this
153 chapter.

154 (2) The mortgage broker and mortgage lender application
155 through the Nationwide Mortgage Licensing System and Registry
156 shall include, but is not limited to, the following:

157 (a) The legal name, residence and business address of
158 the applicant and, if applicable, the legal name, residence and
159 business address of every principal and executive officer,
160 together with the résumé of the applicant and of every principal
161 and executive officer of the applicant. In addition, an
162 independent credit report obtained from a consumer-reporting
163 agency described in Section 603(p) of the Fair Credit Reporting
164 Act and information related to any administrative, civil or
165 criminal findings by any governmental jurisdiction of every
166 principal and executive officer.

167 (b) The legal name of the mortgage broker or mortgage
168 lender in addition to the name under which the applicant will
169 conduct business in the state, neither of which may be already
170 assigned to a licensed mortgage broker or mortgage lender.



171 (c) The complete address of the applicant's principal
172 place of business, branch office(s) and any other locations at
173 which the applicant will engage in any business activity covered
174 by this chapter. All locations shall be within the United States
175 of America or a territory of the United States of America,
176 including Puerto Rico and the U.S. Virgin Islands.

177 (d) A copy of the certificate of incorporation, if a
178 Mississippi corporation.

179 (e) Documentation satisfactory to the department as to
180 a certificate of existence of authority to transact business
181 lawfully in Mississippi from the Mississippi Secretary of State's
182 office, if a limited liability company, partnership, trust or any
183 other group of persons, however organized. This paragraph does
184 not pertain to applicants organized as an individual or as a sole
185 proprietorship.

186 (f) If a foreign entity, a copy of a certificate of
187 authority to conduct business in Mississippi and the address of
188 the principal place of business of the foreign entity.

189 (g) Documentation of a minimum of two (2) years'
190 experience directly related to mortgage activities by a person
191 named as the qualifying individual of the company. The qualifying
192 individual shall be primarily responsible for the operations of
193 the licensed mortgage broker or mortgage lender. Only one (1)
194 qualifying individual shall be named for Mississippi and this



195 person shall be the qualifying individual for only one (1)
196 licensee. Evidence of experience shall include, where applicable:

197 (i) Copies of business licenses issued by
198 governmental agencies.

199 (ii) Employment history of the person filing the
200 application for at least two (2) years before the date of the
201 filing of an application, including, but not limited to, job
202 descriptions, length of employment, names, addresses and phone
203 numbers for past employers.

204 (iii) Any other data and pertinent information as
205 the department may require with respect to the applicant, its
206 directors, principals, trustees, officers, members, contractors or
207 agents. A résumé alone shall not be sufficient proof of
208 employment history.

209 (3) The mortgage broker and mortgage lender applications
210 shall be filed on the Nationwide Mortgage Licensing System and
211 Registry together with the following:

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

213 (b) An original or certified copy of a surety bond in
214 favor of the State of Mississippi for the use, benefit and
215 indemnity of any person who suffers any damage or loss as a result
216 of the company's breach of contract or of any obligation arising
217 therefrom or any violation of law;

218 (c) A set of fingerprints from any local law
219 enforcement agency from the following applicants:



220 (i) All persons operating as a sole proprietorship
221 that plan to conduct a mortgage-brokering or lending business in
222 the State of Mississippi;

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

226 (iii) Any shareholders owning ten percent (10%) or
227 more of the outstanding shares of the corporation;

228 (iv) All executive officers of the applicant;

229 (v) All loan originators; and

230 (vi) The named qualifying individual of the
231 company as required in Section 81-18-9(2)(g). The applicant shall
232 name only one (1) individual as the qualifying individual for the
233 State of Mississippi; and

234 (d) At least one (1) employee shall be licensed as a
235 loan originator at a licensed location.

236 (4) In connection with an application for licensing as a
237 mortgage broker or lender under this chapter, the required
238 stockholders, owners, directors and executive officers of the
239 applicant shall, at a minimum, furnish to the Nationwide Mortgage
240 Licensing System and Registry information concerning the
241 individual's identity, including:

242 (a) Fingerprints from any local law enforcement agency
243 for submission to the Federal Bureau of Investigation and any
244 governmental entity authorized to receive that information for a



245 state, national and/or international criminal history background
246 check; and

247 (b) Personal history and experience in a form
248 prescribed by the Nationwide Mortgage Licensing System and
249 Registry, including the submission of authorization for the
250 Nationwide Mortgage Licensing System and Registry and the
251 commissioner to obtain:

252 (i) An independent credit report obtained from a
253 consumer-reporting agency described in Section 603(p) of the Fair
254 Credit Reporting Act; and

255 (ii) Information related to any administrative,
256 civil or criminal findings by any governmental jurisdiction.

257 (5) Upon receipt of an application for licensure, the
258 department or designated third party shall conduct an
259 investigation as it deems necessary to determine that the
260 applicant and its officers, directors and principals are of good
261 character and ethical reputation; that the applicant demonstrates
262 reasonable financial responsibility; and that the applicant has
263 reasonable policies and procedures to receive and process customer
264 grievances and inquiries promptly and fairly.

265 (6) The commissioner shall not license an applicant unless
266 he is satisfied that the applicant will operate its mortgage
267 activities in compliance with the laws, rules and regulations of
268 this state and the United States.



269 (7) If an applicant satisfies the requirements of this
270 chapter for a mortgage broker or mortgage lender license, the
271 commissioner shall issue the license unless the commissioner finds
272 any of the following:

273 (a) The applicant has had a mortgage lender, mortgage
274 broker or mortgage servicer license revoked in any governmental
275 jurisdiction, except that a subsequent formal vacation of the
276 revocation shall not be deemed a revocation; or

277 (b) The applicant or its controlling persons has been
278 convicted of, or pled guilty or nolo contendere to, (i) a felony
279 in a domestic, foreign or military court during the seven-year
280 period preceding the date of application for licensing; or (ii) at
281 any time preceding the date of application if such felony involved
282 an act of fraud, dishonesty, a breach of trust, or money
283 laundering. However, any pardon or * * * expunction of a
284 conviction shall not be a conviction for purposes of this
285 subsection.

286 (8) Applicants for a mortgage loan originator license shall
287 apply in a form as prescribed by the commissioner and shall be
288 filed on the Nationwide Mortgage Licensing System and Registry.
289 Each such form shall contain content as set forth by rules,
290 regulations, instructions or procedures of the commissioner and
291 may be changed or updated as necessary by the commissioner in
292 order to carry out the purposes of this chapter. The initial
293 license of a mortgage loan originator shall be accompanied by a



294 fee of Two Hundred Dollars (\$200.00), to be paid to the Nationwide
295 Mortgage Licensing System and Registry, and any additional fees as
296 required by the Nationwide Mortgage Licensing System and Registry.
297 The commissioner shall not issue a mortgage loan originator
298 license unless the commissioner makes at a minimum the following
299 findings:

300 (a) The applicant has never had a mortgage loan
301 originator license revoked in any governmental jurisdiction,
302 except that a later formal vacation of that revocation shall not
303 be deemed a revocation.

304 (b) The applicant has not been convicted of, or pled
305 guilty or nolo contendere to, (i) a felony in a domestic, foreign
306 or military court during the seven-year period preceding the date
307 of application for licensing; or (ii) at any time preceding the
308 date of application if such felony involved an act of fraud,
309 dishonesty, a breach of trust or money laundering. However, any
310 pardon or * * * expunction of a conviction shall not be a
311 conviction for purposes of this subsection.

312 (c) The applicant has demonstrated financial
313 responsibility, character and general fitness such as to command
314 the confidence of the community and to warrant a determination
315 that the mortgage loan originator will operate honestly, fairly
316 and efficiently within the purposes of this chapter.

317 (d) The applicant has completed the prelicensing
318 education requirement described in Section 81-18-14(1).



319 (e) The applicant has passed a written test that meets
320 the test requirement described in Section 81-18-14(7).

321 (f) The applicant has met the surety bond requirement
322 as provided in Section 81-18-11.

323 (g) This individual must work for a Mississippi
324 licensed company and work from the location licensed with the
325 department. The licensed location that he or she is assigned to
326 must be within one hundred twenty-five (125) miles of his or her
327 residency. If the licensed loan originator resides and works in
328 Mississippi, then he or she may work from any licensed location of
329 the licensed company within the State of Mississippi. However, an
330 owner of a minimum of ten percent (10%) of a licensed company or
331 the named qualifying individual on file with the department, who
332 is a licensed loan originator with the department, may work from
333 any licensed location of the licensed company within the State of
334 Mississippi in the capacity of a loan originator as described in
335 this chapter.

336 (9) In order to fulfill the purposes of this chapter, the
337 commissioner is authorized to establish relationships or contracts
338 with the Nationwide Mortgage Licensing System and Registry or
339 other entities designated by the Nationwide Mortgage Licensing
340 System and Registry to collect and maintain records and process
341 transaction fees or other fees related to licensees or other
342 persons subject to this chapter.



343 (10) In connection with an application for licensing as a
344 mortgage loan originator, the applicant shall, at a minimum,
345 furnish to the Nationwide Mortgage Licensing System and Registry
346 information concerning the applicant's identity, including:

347 (a) Fingerprints for submission to the Federal Bureau
348 of Investigation, and any governmental agency or entity authorized
349 to receive that information for a state, national and/or
350 international criminal history background check; and

351 (b) Personal history and experience in a form
352 prescribed by the Nationwide Mortgage Licensing System and
353 Registry, including the submission of authorization for the
354 Nationwide Mortgage Licensing System and Registry and the
355 commissioner to obtain:

356 (i) An independent credit report obtained from a
357 consumer-reporting agency described in Section 603(p) of the Fair
358 Credit Reporting Act; and

359 (ii) Information related to any administrative,
360 civil or criminal findings by any governmental jurisdiction.

361 (11) For the purposes of this section and in order to reduce
362 the points of contact which the Federal Bureau of Investigation
363 may have to maintain for purposes of subsection (10)(a) and
364 (b)(ii) of this section, the commissioner may use the Nationwide
365 Mortgage Licensing System and Registry as a channeling agent for
366 requesting information from and distributing information to the
367 Department of Justice or any governmental agency.



368 (12) For the purposes of this section and in order to reduce
369 the points of contact which the commissioner may have to maintain
370 for purposes of subsection (10)(b)(i) and (ii) of this section,
371 the commissioner may use the Nationwide Mortgage Licensing System
372 and Registry as a channeling agent for requesting and distributing
373 information to and from any source so directed by the
374 commissioner.

375 **SECTION 4.** This act shall take effect and be in force from
376 and after its passage.

