

By: Representative Yancey

To: Business and Commerce

HOUSE BILL NO. 934
(As Passed the House)

1 AN ACT TO LIMIT THE REDISCLOSURE OF CONSUMER REPORTS
2 REQUESTED IN CONNECTION WITH A CREDIT TRANSACTION INVOLVING A
3 RESIDENTIAL MORTGAGE LOAN; TO DEFINE CERTAIN TERMS RELATING TO THE
4 ACT; TO BRING FORWARD SECTIONS 75-24-215, 81-18-9, AND 93-11-69,
5 MISSISSIPPI CODE OF 1972, WHICH RELATE TO OBLIGATIONS OF CONSUMER
6 REPORTING AGENCIES, THE MISSISSIPPI S.A.F.E. MORTGAGE ACT, AND
7 ENFORCEMENT OF SUPPORT FOR DEPENDENTS, FOR PURPOSES OF POSSIBLE
8 AMENDMENT; AND FOR RELATED PURPOSES.

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

10 **SECTION 1.** (1) As used in this act, the following terms
11 have the meanings as defined in this section, unless the context
12 clearly indicates otherwise:

13 (a) "Insured credit union" has the meaning given in
14 Section 101 of the Federal Credit Union Act (12 USC 1752).

15 (b) "Insured depository institution" has the meaning
16 given in Section 3 of the Federal Deposit Insurance Act (12 USC
17 1813(c)).

18 (c) "Residential mortgage loan" has the meaning given
19 in Section 1503 of the S.A.F.E. Mortgage Licensing Act of 2008 (12
20 USC 5102).



21 (d) "Servicer" has the meaning given in Section 6(i) of
22 the Real Estate Settlement Procedures Act of 1974 (12 USC
23 2605(i)).

24 (2) If a person requests a consumer report from a consumer
25 reporting agency in connection with a credit transaction involving
26 a residential mortgage loan, that agency may not, solely on the
27 basis of that request, furnish that consumer report to another
28 person unless that other person:

29 (a) Has submitted documentation to that agency
30 certifying that such other person has the authorization of the
31 consumer to whom the consumer report relates; or

32 (b) (i) Has originated the current residential
33 mortgage loan of the consumer;

34 (ii) Is the servicer of the current residential
35 mortgage loan of the consumer; or

36 (iii) 1. Is an insured depository institution or
37 insured credit union; and

38 2. Holds a current account for the consumer
39 to whom the consumer report relates.

40 **SECTION 2.** If a person requests a report from a consumer
41 reporting agency in connection with a credit transaction involving
42 an extension of credit secured by real estate, such agency shall
43 not, solely on the basis of such request, furnish a report to a
44 third party, unless such third party has submitted documentation
45 to such agency certifying that such third party has the consumer's



46 consent or has a current relationship, relating to credit,
47 servicing, or other financial services, with such consumer.

48 **SECTION 3.** Section 75-24-215, Mississippi Code of 1972, is
49 brought forward as follows:

50 75-24-215. If a third party requests access to a consumer
51 report on which a security freeze applies, and this request is in
52 connection with an application for credit, insurance or any other
53 use, and the consumer does not immediately request the consumer
54 reporting agency to lift the security freeze and allow his or her
55 credit report to be accessed for that specific party or period of
56 time, the third party may treat the consumer's application as
57 incomplete.

58 **SECTION 4.** Section 81-18-9, Mississippi Code of 1972, is
59 brought forward as follows:

60 81-18-9. (1) Applicants for a license shall apply in a form
61 as prescribed by the commissioner. Each such form shall contain
62 content as set forth by rule, regulation, instruction or procedure
63 of the commissioner and may be changed or updated as necessary by
64 the commissioner in order to carry out the purposes of this
65 chapter.

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

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



71 business address of every principal and executive officer,
72 together with the résumé of the applicant and of every principal
73 and executive officer of the applicant. In addition, an
74 independent credit report obtained from a consumer-reporting
75 agency described in Section 603(p) of the Fair Credit Reporting
76 Act and information related to any administrative, civil or
77 criminal findings by any governmental jurisdiction of every
78 principal and executive officer.

79 (b) The legal name of the mortgage broker or mortgage
80 lender in addition to the name under which the applicant will
81 conduct business in the state, neither of which may be already
82 assigned to a licensed mortgage broker or mortgage lender.

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

89 (d) A copy of the certificate of incorporation, if a
90 Mississippi corporation.

91 (e) Documentation satisfactory to the department as to
92 a certificate of existence of authority to transact business
93 lawfully in Mississippi from the Mississippi Secretary of State's
94 office, if a limited liability company, partnership, trust or any
95 other group of persons, however organized. This paragraph does



96 not pertain to applicants organized as an individual or as a sole
97 proprietorship.

98 (f) If a foreign entity, a copy of a certificate of
99 authority to conduct business in Mississippi and the address of
100 the principal place of business of the foreign entity.

101 (g) Documentation of a minimum of two (2) years'
102 experience directly related to mortgage activities by a person
103 named as the qualifying individual of the company. The qualifying
104 individual shall be primarily responsible for the operations of
105 the licensed mortgage broker or mortgage lender. Only one (1)
106 qualifying individual shall be named for Mississippi and this
107 person shall be the qualifying individual for only one (1)
108 licensee. Evidence of experience shall include, where applicable:

109 (i) Copies of business licenses issued by
110 governmental agencies.

111 (ii) Employment history of the person filing the
112 application for at least two (2) years before the date of the
113 filing of an application, including, but not limited to, job
114 descriptions, length of employment, names, addresses and phone
115 numbers for past employers.

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



121 (3) The mortgage broker and mortgage lender applications
122 shall be filed on the Nationwide Mortgage Licensing System and
123 Registry together with the following:

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

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

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

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

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

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

140 (iv) All executive officers of the applicant;

141 (v) All loan originators; and

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



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

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

154 (a) Fingerprints from any local law enforcement agency
155 for submission to the Federal Bureau of Investigation and any
156 governmental entity authorized to receive that information for a
157 state, national and/or international criminal history background
158 check; and

159 (b) Personal history and experience in a form
160 prescribed by the Nationwide Mortgage Licensing System and
161 Registry, including the submission of authorization for the
162 Nationwide Mortgage Licensing System and Registry and the
163 commissioner to obtain:

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

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

169 (5) Upon receipt of an application for licensure, the
170 department or designated third party shall conduct an



171 investigation as it deems necessary to determine that the
172 applicant and its officers, directors and principals are of good
173 character and ethical reputation; that the applicant demonstrates
174 reasonable financial responsibility; and that the applicant has
175 reasonable policies and procedures to receive and process customer
176 grievances and inquiries promptly and fairly.

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

181 (7) If an applicant satisfies the requirements of this
182 chapter for a mortgage broker or mortgage lender license, the
183 commissioner shall issue the license unless the commissioner finds
184 any of the following:

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

189 (b) The applicant or its controlling persons has been
190 convicted of, or pled guilty or nolo contendere to, (i) a felony
191 in a domestic, foreign or military court during the seven-year
192 period preceding the date of application for licensing; or (ii) at
193 any time preceding the date of application if such felony involved
194 an act of fraud, dishonesty, a breach of trust, or money



195 laundering. However, any pardon or expungement of a conviction
196 shall not be a conviction for purposes of this subsection.

197 (8) Applicants for a mortgage loan originator license shall
198 apply in a form as prescribed by the commissioner and shall be
199 filed on the Nationwide Mortgage Licensing System and Registry.
200 Each such form shall contain content as set forth by rules,
201 regulations, instructions or procedures of the commissioner and
202 may be changed or updated as necessary by the commissioner in
203 order to carry out the purposes of this chapter. The initial
204 license of a mortgage loan originator shall be accompanied by a
205 fee of Two Hundred Dollars (\$200.00), to be paid to the Nationwide
206 Mortgage Licensing System and Registry, and any additional fees as
207 required by the Nationwide Mortgage Licensing System and Registry.
208 The commissioner shall not issue a mortgage loan originator
209 license unless the commissioner makes at a minimum the following
210 findings:

211 (a) The applicant has never had a mortgage loan
212 originator license revoked in any governmental jurisdiction,
213 except that a later formal vacation of that revocation shall not
214 be deemed a revocation.

215 (b) The applicant has not been convicted of, or pled
216 guilty or nolo contendere to, (i) a felony in a domestic, foreign
217 or military court during the seven-year period preceding the date
218 of application for licensing; or (ii) at any time preceding the
219 date of application if such felony involved an act of fraud,



220 dishonesty, a breach of trust or money laundering. However, any
221 pardon or expungement of a conviction shall not be a conviction
222 for purposes of this subsection.

223 (c) The applicant has demonstrated financial
224 responsibility, character and general fitness such as to command
225 the confidence of the community and to warrant a determination
226 that the mortgage loan originator will operate honestly, fairly
227 and efficiently within the purposes of this chapter.

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

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

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

234 (g) This individual must work for a Mississippi
235 licensed company and work from the location licensed with the
236 department. The licensed location that he or she is assigned to
237 must be within one hundred twenty-five (125) miles of his or her
238 residency. If the licensed loan originator resides and works in
239 Mississippi, then he or she may work from any licensed location of
240 the licensed company within the State of Mississippi. However, an
241 owner of a minimum of ten percent (10%) of a licensed company or
242 the named qualifying individual on file with the department, who
243 is a licensed loan originator with the department, may work from
244 any licensed location of the licensed company within the State of



245 Mississippi in the capacity of a loan originator as described in
246 this chapter.

247 (9) In order to fulfill the purposes of this chapter, the
248 commissioner is authorized to establish relationships or contracts
249 with the Nationwide Mortgage Licensing System and Registry or
250 other entities designated by the Nationwide Mortgage Licensing
251 System and Registry to collect and maintain records and process
252 transaction fees or other fees related to licensees or other
253 persons subject to this chapter.

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

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

262 (b) Personal history and experience in a form
263 prescribed by the Nationwide Mortgage Licensing System and
264 Registry, including the submission of authorization for the
265 Nationwide Mortgage Licensing System and Registry and the
266 commissioner to obtain:

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



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

272 (11) For the purposes of this section and in order to reduce
273 the points of contact which the Federal Bureau of Investigation
274 may have to maintain for purposes of subsection (10)(a) and
275 (b)(ii) of this section, the commissioner may use the Nationwide
276 Mortgage Licensing System and Registry as a channeling agent for
277 requesting information from and distributing information to the
278 Department of Justice or any governmental agency.

279 (12) For the purposes of this section and in order to reduce
280 the points of contact which the commissioner may have to maintain
281 for purposes of subsection (10)(b)(i) and (ii) of this section,
282 the commissioner may use the Nationwide Mortgage Licensing System
283 and Registry as a channeling agent for requesting and distributing
284 information to and from any source so directed by the
285 commissioner.

286 **SECTION 5.** Section 93-11-69, Mississippi Code of 1972, is
287 brought forward as follows:

288 93-11-69. (1) As used in this section:

289 (a) "Noncustodial parent" means a parent from whom the
290 Department of Human Services is collecting support payments, and
291 shall have the same meaning as "absent parent."

292 (b) "Consumer reporting agency" means any person who,
293 for monetary fees, dues, or on a cooperative nonprofit basis,
294 regularly engages in whole or in part in the practice of



295 assembling or evaluating consumer credit information or other
296 information on consumers for the purpose of furnishing consumer
297 reports to third parties, and who uses any means or facility of
298 interstate commerce for the purpose of preparing or furnishing
299 consumer reports.

300 (c) "Department" means the Department of Human
301 Services.

302 (d) "Overdue support" means any payments that are
303 ordered by any court to be paid by an absent parent for the
304 support of a child that have remained unpaid for at least thirty
305 (30) days after payment is due. Overdue support shall also
306 include payments that are ordered by any court to be paid for
307 maintenance of a spouse in cases in which the department is
308 collecting such support in conjunction with child support.

309 (2) The department shall make available to any consumer
310 reporting agency a report of the amount of overdue support owed by
311 an absent parent.

312 (3) Before any information regarding an absent parent's
313 overdue support may be made available pursuant to subsection (2)
314 of this section, a copy of the report shall be mailed to the
315 absent parent at such parent's last known address and the absent
316 parent shall be given the opportunity to contest the information
317 contained in the report as follows:

318 (a) The absent parent may, within fifteen (15) days
319 after such notice is mailed, contest the accuracy of the



320 information contained in the report by filing with the department
321 a brief written statement concerning the nature of the alleged
322 inaccuracies.

323 (b) Upon receipt of such statement the department
324 shall, within a reasonable amount of time, reexamine the
325 information contained in the report.

326 (c) If upon such reexamination the information in the
327 report is found to be inaccurate, the department shall correct the
328 information and send a copy of such corrected information to the
329 absent parent.

330 (d) If upon such reexamination the information
331 contained in the report is found to be accurate, the department
332 shall notify the absent parent of this fact.

333 (e) Within ten (10) days after a copy of the reexamined
334 information contained in the report is mailed to the absent
335 parent, such absent parent may again contest the accuracy of such
336 information by filing a brief written statement concerning the
337 alleged inaccuracies and the department shall clearly note in any
338 report to the consumer reporting agency the fact that the
339 information is disputed unless there are reasonable grounds to
340 believe that the statement filed by the absent parent is frivolous
341 or irrelevant.

342 (4) The fee charged by the department for furnishing a
343 report pursuant to this section shall not exceed the actual cost
344 of furnishing such report.



345 (5) The Child Support Unit of the department may provide
346 overdue support information to consumer reporting agencies through
347 an automated computer system free of charge and with notice to the
348 defendant as required by Title IV-D of the Social Security Act and
349 the implementing regulations.

350 **SECTION 6.** This act shall take effect and be in force from
351 and after July 1, 2024.

