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April 21, 2004

**REGULATORY MEMORANDUM – NEW AMENDMENTS TO MISSISSIPPI
MORTGAGE CONSUMER PROTECTION LAW**

TO: Various entities, including: Licensees, Exempt Companies, Attorneys, Home Improvement Companies, etc.

FROM: Traci McCain
Director, Mortgage Division
Mississippi Department of Banking and Consumer Finance

RE: **New Amendments to Mississippi Mortgage Consumer Protection Law – effective IMMEDIATELY**

This Memorandum is to inform the Regulatory Contact with the Licensee / Exempt (Registered) Company of recent amendments made to Section 81-18-1 et seq, Mississippi Code of 1972, Annotated, which is also known as the “Mississippi Mortgage Consumer Protection Law”. The amended bill (House Bill #788) was signed into law by Governor Barbour on April 20, 2004 and becomes effective immediately. The following is a **BRIEF SYNOPSIS** of the amendments. For a complete copy of the law, please refer to the Department’s website www.dbcf.state.ms.us or to the Legislative website to download a copy of House Bill #788: <http://billstatus.ls.state.ms.us/2004/pdf/mainmenu.htm>. In the newly amended law, where words are underlined, it means that this is new language to the law. Where there is a *******, it means that language has been deleted from the law.

1. Companies now holding an “Exemption Certificate” under Section 81-18-5(c), MS Code of 1972, Annotated will now be referred to as “registered” with the Department and hold a “**Registration Certificate**”.

2. Companies “registered” under Section 81-18-5(c), MS Code of 1972, Annotated, are now required to adhere to the following, in addition to the eight sections already required:
- a. **Registered (formally known as “exempt”) companies will now have to register all employees who meet the definition of a “Loan Originator”** in Section 81-18-3(j), Mississippi Code of 1972, Annotated. These include W-2 and 1099 employees who originate loans on Mississippi residential property. This registration does include a background check and an application with a cost of \$100.00. There are no upfront education requirements; however, in order to renew the registration, there will be a twelve (12) hour continuing education requirement from an approved continuing education provider. These providers are listed on the Department’s website. Per Commissioner Allison, the deadline requirement to register all currently employed loan originators for **currently “registered”** companies under this Section is October 1, 2004, which is the beginning of the new license year. For all new companies applying for the registration certificate, loan originators will have to register with the company immediately. The loan originator application is available on the Department’s website.
 - b. **Registered (exempt) companies will now have to register branches** of their company that meet the definition of a “Branch” in Section 81-18-3(b), MS Code of 1972, Annotated. The branch only needs to register if business will be conducted from that branch concerning Mississippi residential property, even if the branch is not located in Mississippi. The branch application is available on the Department’s website and the cost is \$100.00 with a renewal fee of \$50.00.
 - c. The “United States Department of Veterans Affairs” exemption **has been removed** from Section 81-18-5(c), MS Code of 1972, Annotated. If this VA qualification is how the company qualified for this Section, then in order to renew for 2004 license year, a Regular Mortgage License Application must be completed and approved by October 1, 2004, the beginning of the new license year. The company will be allowed to continuing operating until the expiration of their current exemption certificate, September 30, 2004, without applying for a regular mortgage license.
 - d. Certain code sections have been added to the current list of eight (8) code sections that these registered (exempt) companies must comply with. **The newly added sections include: 81-18-13, 81-18-17, 81-18-23 and 81-18-33.** Please refer to these sections in the law for detailed explanation. Sections 81-18-17 is not listed with the other sections for compliance, but is added at the bottom of Section 81-18-5(c), MS Code of 1972, Annotated as a requirement.
3. Definition added for “Residential Immovable Property” in Section 81-18-3(s), MS Code of 1972, Annotated. This definition is in direct correlation with new language added in Section 81-18-5(h), MS Code of 1972, Annotated. **Persons who engage in owner financing or financing of a consumer loan which is secured by a mortgage on Mississippi residential property are now required to comply with the Mississippi Mortgage Consumer Protection Law.** Examples of financing of a consumer loan secured by a mortgage are vinyl siding companies, roof installers, pool installers, etc. These companies may make twelve (12) or fewer of these type of loans without being fully licensed (but must comply with the Law) by the Department; however, for each of the 12 transactions, a form must be completed and submitted to the Department. This form will be available on the Department’s website. Once thirteen (13) loans have been made under this section, then a Regular Mortgage License must be applied for by the person or company. ONLY THE MANUFACTURED HOUSING INDUSTRY AND PERSONS MEETING THE QUALIFICATIONS AND REQUIREMENTS OF THIS SECTION HAVE THE ABILITY TO MAKE TWELVE OR FEWER MORTGAGE LOANS IN MISSISSIPPI WITHOUT BEING LICENSED.

4. Section 81-18-15(1), MS Code of 1972, Annotated, now states that any application made with the Department has a NONREFUNDABLE application fee. **Therefore, there will be no refunds made by the Department for applications withdrawn or denied by the Department.**
5. Section 81-18-17(6), MS Code of 1972, Annotated, now requires **all branch offices to renew** the branch license annually for regularly licensed companies and companies holding registration (exemption) certificates. The licensing period for branch offices will be the same as the Mortgage Company and Loan Originators, October 1 through September 30. A branch renewal form will be included with the company's and loan originator's renewal forms which are mailed in July. A nominal renewal fee of \$25.00 will be charged per branch renewal.
6. Section 81-18-21(1), MS Code of 1972, Annotated, now requires the Mortgage Company to maintain historical data for a period of three (3) years instead of two (2) years.
7. Section 81-18-21(1), MS Code of 1972, Annotated, now requires that a company submit and receive permission of the Banking Commissioner before storing any required files in a location that is different than the address listed on the main license or registration certificate.
8. Section 81-18-23, MS Code of 1972, Annotated, was amended to change the date of the Annual Report from a filing deadline of April 1 to January 31. Also, the penalty for late filing of this report was reduced to \$10.00 per day with a maximum fine of \$200.00.
9. Section 81-18-23(5)(6), MS Code of 1972, Annotated, were added to state that **with the occurrence of certain events, a company must notify the Department**, in writing, within fifteen (15) days, unless otherwise noted. These events include, but are not limited to: Bankruptcy filing, revocation or suspension proceedings by another licensing agency, and felony indictment and/or conviction of company's directors, executive officers, principal officer or loan originators. Also, if the company or principal officer is involved in a civil action concerning the company, the Department must be notified, in writing, within sixty (60) days.
10. Section 81-18-25(4), MS Code of 1972, Annotated, was added to state certain instances in which a company must apply for a mortgage company license, and not be allowed to apply for a branch license. Please refer to this section for the specific requirements.

Again, this is a very brief synopsis of a few of the amendments made to the Mississippi Mortgage Consumer Protection Law as of April 20, 2004. Please read the entire, newly amended Mississippi Mortgage Consumer Protection Law VERY CAREFULLY. There have been many additions and deletions to this law that have become effective immediately. In the newly amended law, new language will be underlined, and deleted language will have *** in its place. **Please remember that all applications and most answers to questions can be found on the Department's website www.dbcf.state.ms.us.** Amendments to the Department issued Regulations issued on March 3, 2003 will also be forthcoming. You will be notified when the Commissioner has issued them.

If you have any questions, preferably email me at tmccain@dbcf.state.ms.us. You may also call the mortgage division at 1-800-844-2499. However, please note that due to this amended law becoming effective immediately, there will be a great number of phone calls and there will be a delay in returning all phone calls. **Therefore, if possible, and for quicker response time, please email all questions.**