



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

July 20, 2023

Robert E. Praytor
Administrator, Mississippi Real Estate Commission
Post Office Box 12685
Jackson, Mississippi 39236

Re: Mississippi Real Estate Commission's Authority

Dear Mr. Praytor:

The Office of the Attorney General has received your request for an official opinion.

Question Presented

Does the language of Mississippi Code Annotated Section 73-35-21(6) remove the Mississippi Real Estate Commission's ("MREC") authority to discipline or take other action against a real estate licensee for the specific, statutorily described violations enumerated in Section 73-35-21(1)(a)-(n)?

Brief Response

Section 73-35-21(6) does not repeal the MREC's power to refuse, suspend, or revoke a license under Section 73-35-21(1) for the acts listed in Subsections (1)(a)-(n).

Applicable Law and Discussion

Section 73-35-21(1) grants the MREC the "full power to refuse a license for cause or to revoke or suspend a license where it has been obtained by false or fraudulent representation, or where the licensee in performing or attempting to perform any of the acts mentioned herein, is deemed to be guilty of" any of the prescribed violations in Subsections (a) through (n). Effective March 14, 2023, the following language was added to Section 73-35-21 as Subsection (6):

The Mississippi Real Estate Commission shall not promulgate any rule or regulation, nor make any administrative or other interpretation, whereby any real estate licensee may be held responsible or subject to discipline or other actions by the commission *relating to the provisions of this section* or the information required

to be disclosed by Sections 89-1-501 through 89-1-523 or delivery of information required to be disclosed by Sections 89-1-501 through 89-1-523.

(emphasis added).

Subsection (6) does not repeal the MREC's power to refuse, suspend, or revoke a license under Subsection (1) for the acts listed therein. Rather, it prevents the MREC from promulgating its own rules and regulations in contradiction of the statutory amendments put forth by 2023 Mississippi Senate Bill No. 2647. Subsection (6) likewise prevents the MREC from making any administrative or other interpretation to hold any real estate licensee responsible or subject to discipline or other action by the commission relating to either the provisions of Section 73-35-21 or the disclosures and subsequent delivery in Sections 89-1-501 through 89-1-523. Accordingly, it is the opinion of this office that the MREC may still refuse, revoke, or suspend licenses for the specified acts in Section 73-35-21(1). Finally, we note that the factual determination necessary for the MREC to determine whether a licensee's conduct fits within the purview of the acts set forth in Subsection (1) neither violates nor is prohibited by Subsection (6).

If this office may be of any further assistance to you, please do not hesitate to contact us.

Sincerely,

LYNN FITCH, ATTORNEY GENERAL

By: */s/ Abigail C. Overby*

Abigail C. Overby
Special Assistant Attorney General