HOUSE BILL NO. 1450

AN ACT TO CREATE THE MISSISSIPPI CREDIT INSURANCE CONSUMER PROTECTION ACT; TO PROVIDE ADDITIONAL CONSUMER PROTECTIONS IN CONNECTION WITH THE SALE OF CREDIT INSURANCE; TO REQUIRE ADDITIONAL DISCLOSURES TO CONSUMERS IN CONNECTION WITH THE SALE OF CREDIT INSURANCE; TO CLARIFY THE DUTIES AND RESPONSIBILITIES OF CREDITORS AND RELATED PERSONS IN CONNECTION WITH THE SALE OF CREDIT INSURANCE; TO AMEND SECTION 83-53-17, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING PROVISIONS; AND FOR RELATED PURPOSES.

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

SECTION 1. This act shall be known and may be cited as the Mississippi Credit Insurance Consumer Protection Act.

SECTION 2. This act is remedial in nature and is intended to establish additional consumer safeguards in connection with consumer credit insurance sales practices of creditors and related persons, to clarify the duties of creditors and related persons in connection with consumer credit insurance sales practices, and to clarify the ability of creditors and related persons to rely upon compliance with applicable federal and state statutes and regulations concerning consumer credit insurance sales practices. Enactment of this act shall not be construed to create any implication that any creditor or other person previously possessed any fiduciary or similar obligations to consumers with respect to the offering, solicitation or sale of consumer credit insurance.

SECTION 3. As used in this act, the following words and phrases shall have the following meanings:

(a) "Creditor" means a creditor as defined in Section 83-53-3(2)(d).

(b) "Consumer" means a natural person to whom consumer credit is offered or extended.
(c) "Consumer credit" means credit offered or extended to a consumer primarily for personal, family or household purposes.

(d) "Consumer credit insurance" means credit life insurance, credit disability insurance, personal property insurance or involuntary unemployment insurance offered, solicited or sold by or through a creditor, a subsidiary or affiliate of the creditor, or an employee, agent or representative of a creditor or its affiliate or subsidiary in connection with consumer credit where the creditor is a beneficiary of the insurance.

SECTION 4. When an extension of consumer credit is refinanced by the original creditor and the consumer cancels existing consumer credit insurance and purchases a similar type of consumer credit insurance from the original insurer in connection with the refinancing, any refund of unearned premium for the cancelled consumer credit insurance shall be calculated using a method no less favorable to the consumer than the single premium method under which the refund is the amount of the gross single premium for a policy of consumer credit insurance having the same benefits and term as the unexpired coverage being cancelled.

SECTION 5. A consumer who has purchased consumer credit insurance shall have a right to cancel the consumer credit insurance within fifteen (15) calendar days after the date the consumer credit insurance becomes effective and receive a full refund of any premium. If the premium was financed as part of a consumer credit transaction, the refund may, at the option of the creditor, be made to the consumer or by credit to the consumer credit transaction, which credit shall include any finance charge paid or collected on the premium, cancellation of any unpaid finance charge imposed or to be imposed on the premium and adjustment of the amounts of any unpaid installment payments necessary to reflect the reduced amount of the consumer credit transaction. The creditor shall disclose this right of
cancellation to the consumer in writing before consummation of the consumer credit transaction as required in Section 6 of this act and in a separate written notice mailed to the insured consumer within five (5) calendar days after the date the consumer credit insurance becomes effective. Nothing in this section shall be construed to prohibit a creditor from requiring insurance other than consumer credit insurance as a condition of consumer credit, subject, however, to applicable law.

SECTION 6. Not later than July 1, 2003, the Commissioner of Insurance shall prescribe regulations requiring all agents for the sale of consumer credit insurance to deliver or cause to be delivered to a consumer before consummation of a consumer credit transaction in which consumer credit insurance may be offered, solicited or sold, a written consumer information disclosure, written in plain language and designed to inform the consumer of the following information with respect to consumer credit insurance:

(a) A creditor may not require a consumer to purchase consumer credit insurance from the creditor, a subsidiary or affiliate of the creditor or any particular insurance agent in order to obtain a loan.

(b) A creditor may not prohibit a consumer from purchasing consumer credit insurance from an agent or insurance company that is not affiliated with the creditor in order to obtain a loan.

(c) Consumer credit insurance is not suitable for everyone and there may be lower cost alternatives available to the consumer.

(d) If the consumer purchases consumer credit insurance from the creditor or a subsidiary or affiliate of the creditor, the creditor, subsidiary or affiliate or the insurance agent may receive a commission that may be a significant portion of the premium charged the consumer for the consumer credit insurance.
(e) A creditor may not include the premium for consumer credit insurance as part of a consumer credit transaction without the written consent of the consumer. If the premium for consumer credit insurance is financed as part of the consumer credit transaction, the consumer also will incur finance charge on the consumer credit insurance premium.

(f) The consumer’s right to cancel consumer credit insurance within fifteen (15) calendar days after the consumer credit insurance becomes effective and receive a full refund of the premium for the consumer credit insurance and any related finance charge.

(g) The consumer’s right to cancel consumer credit insurance at any later date and receive a partial refund of the premium for the consumer credit insurance.

(h) The consumer’s right to a refund of a portion of the consumer credit insurance premium if the consumer credit insurance is cancelled by the consumer or the consumer credit transaction is refinanced or paid in full before maturity and a brief explanation of the methods used to calculate refunds including one or more representative examples.

(i) A copy of the consumer credit insurance policy or a certificate describing the consumer credit insurance coverage is required to be delivered to a consumer who purchases consumer credit insurance, and consumers should review the policy or certificate carefully.

The regulation shall include model disclosure forms and clauses to facilitate compliance with the disclosure requirements of this section utilizing readily understandable language to simplify the technical nature of the disclosure. Nothing in this act may be construed to require the use of any such model form or clause prescribed by the commissioner under this section. A person shall be deemed to be in compliance with the disclosure requirements stated in this section if the person uses any
appropriate model form or clause as published by the commissioner or uses any such model form or clause and changes it by deleting any information that is not required by this act, by rearranging the format or by adding additional information if on making that change, the person does not affect the substance, clarity or meaningful sequence of the disclosure.

SECTION 7. A creditor shall timely make all written disclosures that are expressly required under applicable federal or state statutes or regulations to be made to a consumer in connection with the offering, solicitation or sale of consumer credit insurance.

SECTION 8. A creditor shall not charge or collect consumer credit insurance premiums or related finance charge or other charges in amounts that exceed any limits expressly imposed by applicable federal or state statutes or regulations. Premiums, fees or other charges that exceed any such express limits shall be subject to Section 75-17-25.

SECTION 9. (1) In connection with the offering, solicitation and sale of consumer credit insurance, the creditor, any subsidiary or affiliate of the creditor, the insurer and any employee, agent or representative of the creditor, its subsidiary or affiliate or the insurer have only those duties and responsibilities expressly imposed upon them under this act and other applicable federal and state statutes and regulations, whether now existing or hereafter enacted or amended.

(2) In connection with the offering, solicitation and sale of consumer credit insurance, the creditor, any subsidiary or affiliate of the creditor, the insurer and any employee, agent or representative of the creditor, its subsidiary or affiliate or the insurer shall have no liability for any act or practice done or omitted in conformity with (a) any rule or regulation of the commissioner, or (b) any rule, regulation, interpretation or approval of any other state or federal agency or any opinion of
the Attorney General, notwithstanding that after the act or omission has occurred the rule, regulation, interpretation, approval or opinion is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

(3) In connection with the offering, solicitation and sale of consumer credit insurance, the creditor, any subsidiary or affiliate of the creditor, the insurer and any employee, agent or representative of the creditor, its subsidiary or affiliate or the insurer, acting in conformity with a written interpretation or approval by an official or employee of any state or federal agency or department, shall be presumed to have acted in accordance with applicable law, notwithstanding that after the act has occurred, the interpretation or approval is amended, rescinded, or determined by judicial or other authority to be incorrect or invalid for any reason.

SECTION 10. A cause of action by a consumer based on any alleged actions or omissions of a creditor, a subsidiary or affiliate of the creditor or an employee, agent or representative of the creditor or its subsidiary or affiliate in connection with the offering, solicitation or sale of consumer credit insurance occurs, accrues and is discoverable at the time the creditor makes the written disclosures that are expressly required under applicable federal or state statutes or regulations to be made to the consumer in connection with the offering, solicitation or sale of consumer credit insurance. In connection with any such cause of action, the act or omission or event which causes the injury occurs in the county where the consumer credit transaction is entered into between the creditor and the consumer.

SECTION 11. Section 83-53-17, Mississippi Code of 1972, is amended as follows:

83-53-17. (1) Any insurer with the prior approval of the commissioner may revise its schedules of premium rates from time to time and shall file the revised schedules with the
commissioner. No insurer shall issue any credit life insurance policy or credit disability insurance policy for which the premium rate exceeds that determined by the schedules of the insurer as previously approved by the commissioner.

(2) Each individual policy or group certificate shall provide that in the event of termination of the insurance before the scheduled maturity date of the indebtedness, any refund of an amount paid by the debtor for insurance shall be paid or credited promptly by the insurer to the person entitled thereto; * * * however, * * * no refund of less than Two Dollars ($2.00) need be made. Except as provided in Sections 4 and 5 of this act, the formula to be used in computing the premium refund shall be the "sum of the digits" formula with respect to decreasing term credit life insurance and credit disability insurance, and the "pro rata" formula with respect to level term credit life insurance. Upon the payment of a death benefit under the credit life insurance coverage, the entire premium shall be considered earned and no refund shall be due. The insurer shall pay or cause to be paid to the debtor any refund due under this subsection within thirty (30) days of the accrual of the refund.

(3) The amount required of a debtor for any credit life or credit disability insurance shall not exceed the premium rate allowed to the insurer computed at the time the cost to the debtor is determined. All premiums payable to the insurer less any compensation to the agent or supervising general agent shall be remitted by the agent or supervising general agent to the insurer within sixty (60) days of collection.

(4) The commissioner may promulgate rules by which an insurer may certify that the policy forms and other documents required to be approved by the commissioner before use are in compliance with this chapter.

SECTION 12. This act shall take effect and be in force from and after July 1, 2003.