

By: Senator(s) Kirby

To: Judiciary

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2458

1 AN ACT TO DEFINE THE TERM "SERVICE CONTRACT"; TO PROVIDE THAT
2 SERVICE CONTRACTS ARE NOT A CONTRACT OF INSURANCE UNDER
3 MISSISSIPPI LAW AND IS EXEMPT FROM TITLE 83, MISSISSIPPI CODE OF
4 1972; TO PROVIDE THAT SERVICE CONTRACTS ARE SUBJECT TO THE
5 MISSISSIPPI CONSUMER PROTECTION ACT; TO REPEAL SECTIONS 83-57-1
6 THROUGH 83-57-79, MISSISSIPPI CODE OF 1972, WHICH PROVIDE FOR THE
7 REGULATION OF HOME WARRANTIES BY THE COMMISSIONER OF INSURANCE;
8 AND FOR RELATED PURPOSES.

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

10 **SECTION 1.** (1) The terms "service contract," "home
11 warranty" or "home service contract," as used in this section,
12 means a contract or agreement for a separately stated
13 consideration for a specific duration to perform the repair,
14 replacement or maintenance of property or to reimburse, in whole
15 or in part, the owner of such property for the repair, replacement
16 or maintenance of property if so operational or structural failure
17 is due to a defect in materials or manufacturing or to normal wear
18 and tear. A service contract may contain a provision for
19 incidental payment under such contract where service, repair or
20 replacement is not feasible or economical.

21 (2) The marketing, sale, offering for sale, issuance,
22 making, proposing to make and administration of a service contract
23 is not a contract of insurance under Mississippi law and is exempt
24 from the provisions of Title 83, Mississippi Code of 1972.

25 (3) Service contracts shall be subject to the provisions of
26 the Mississippi Consumer Protection Act, Section 75-24-1 et seq.

27 (4) Nothing contained herein shall repeal or alter the
28 regulation of vehicle service contracts currently defined and
29 regulated under Section 83-65-101 et seq.



30 **SECTION 2.** Sections 83-57-1, 83-57-3, 83-57-5, 83-57-7,
31 83-57-9, 83-57-11, 83-57-13, 83-57-15, 83-57-17, 83-57-19,
32 83-57-21, 83-57-23, 83-57-25, 83-57-27, 83-57-29, 83-57-31,
33 83-57-33, 83-57-35, 83-57-37, 83-57-39, 83-57-41, 83-57-43,
34 83-57-45, 83-57-47, 83-57-49, 83-57-51, 83-57-53, 83-57-55,
35 83-57-57, 83-57-59, 83-57-61, 83-57-63, 83-57-65, 83-57-67,
36 83-57-69, 83-57-71, 83-57-73, 83-57-75, 83-57-77 and 83-57-79,
37 Mississippi Code of 1972, which provide for the regulation of home
38 warranties by the Commissioner of Insurance, are hereby repealed.

39 **SECTION 3.** This act shall take effect and be in force from
40 and after its passage, and shall be applicable to all proceedings
41 pending before the Department of Insurance or the courts of this
42 state on the effective date of this act.

