MISSISSIPPI LEGISLATURE
REGULAR SESSION 2003

By: Senator(s) Kirby
To: Judiciary

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2458

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

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

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

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

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

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

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