

By: Senator(s) Kirby

To: Insurance

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2830

1 AN ACT TO CREATE THE MISSISSIPPI CREDIT INSURANCE CONSUMER
2 PROTECTION ACT; TO PROVIDE ADDITIONAL CONSUMER PROTECTIONS IN
3 CONNECTION WITH THE SALE OF CREDIT INSURANCE; TO REQUIRE
4 ADDITIONAL DISCLOSURES TO CONSUMERS IN CONNECTION WITH THE SALE OF
5 CREDIT INSURANCE; TO CLARIFY THE DUTIES AND RESPONSIBILITIES OF
6 CREDITORS AND RELATED PERSONS IN CONNECTION WITH THE SALE OF
7 CREDIT INSURANCE; TO AMEND SECTION 83-53-17, MISSISSIPPI CODE OF
8 1972, TO CONFORM TO THE PRECEDING PROVISIONS; AND FOR RELATED
9 PURPOSES.

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

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

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

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

27 (a) "Creditor" means a creditor as defined in Section
28 83-53-3(2)(d).

29 (b) "Consumer" means a natural person to whom consumer
30 credit is offered or extended.



31 (c) "Consumer credit" means credit offered or extended
32 to a consumer primarily for personal, family or household
33 purposes.

34 (d) "Consumer credit insurance" means credit life
35 insurance, credit disability insurance, credit personal property
36 insurance, credit involuntary unemployment insurance, credit leave
37 of absence insurance or such other types of credit insurance
38 approved by the Commissioner of Insurance offered, solicited or
39 sold by or through a creditor, a subsidiary or affiliate of the
40 creditor, or an employee, agent or representative of a creditor or
41 its affiliate or subsidiary in connection with consumer credit
42 where the creditor is a beneficiary of the insurance.

43 **SECTION 4.** When an extension of consumer credit is
44 refinanced by the original creditor and the refinancing includes
45 cancellation of existing consumer credit insurance and purchase of
46 a similar type of consumer credit insurance from the original
47 insurer, any refund of unearned premium for the cancelled consumer
48 credit insurance shall be calculated using a method no less
49 favorable to the consumer than the rule of anticipation method
50 pursuant to which the refund is the premium for a policy of
51 consumer credit insurance having the same benefits and term as the
52 unexpired coverage using the original rate schedule of the
53 cancelled policy.

54 **SECTION 5.** A consumer who has purchased consumer credit
55 insurance shall have a right to cancel the consumer credit
56 insurance within fifteen (15) calendar days after the disclosures
57 required by Section 6 of this act are made and receive a full
58 refund of any premium. If the premium was financed as part of a
59 consumer credit transaction, the refund may, at the option of the
60 creditor, be made to the consumer or by credit to the consumer
61 credit transaction. If the creditor chooses to make the refund by
62 credit to the consumer credit transaction, the credit shall
63 include any finance charge paid or collected on the premium,



64 cancellation of any unpaid finance charge imposed or to be imposed
65 on the premium and adjustment of the amounts of any unpaid
66 installment payments necessary to reflect the reduced amount of
67 the consumer credit transaction. Nothing in this act shall be
68 construed to prohibit a creditor from requiring, as a condition of
69 consumer credit, property insurance or other forms of insurance
70 coverage which are not consumer credit insurance as defined in
71 this act, subject, however, to applicable law.

72 **SECTION 6.** (1) All agents for the sale of consumer credit
73 insurance shall make or cause to be made to the consumer the
74 following disclosures in connection with the sale of consumer
75 credit insurance:

76 (a) The creditor may not require you to purchase
77 consumer credit insurance from the creditor, a subsidiary or
78 affiliate of the creditor or any particular insurance agent in
79 order to obtain a loan.

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

83 (c) If you have other insurance that covers the risk,
84 you may not want or need consumer credit insurance. There may
85 also be lower cost alternatives available to you.

86 (d) If you purchase consumer credit insurance from the
87 creditor or a subsidiary or affiliate of the creditor, the
88 creditor, subsidiary or affiliate or the insurance agent may
89 receive a commission that may be a significant portion of the
90 premium charged you for the consumer credit insurance.

91 (e) The creditor may not include the premium for
92 consumer credit insurance as part of a consumer credit transaction
93 without your written consent. If you finance the premium for
94 consumer credit insurance, you will also incur finance charge on
95 the premium at the rate applicable to the consumer credit
96 transaction.



97 (f) You have the right to cancel the consumer credit
98 insurance within fifteen (15) calendar days and receive a full
99 refund of the premium.

100 (g) You have the right to cancel consumer credit
101 insurance at any later date and receive a refund of any unearned
102 premium for the consumer credit insurance.

103 (h) A copy of the consumer credit insurance policy or a
104 certificate describing the amount, term, limitations and
105 exclusions, refund methods and other important terms of the
106 consumer credit insurance coverage is required to be delivered to
107 you. You should review the policy or certificate carefully.

108 The disclosures shall be in writing printed in at least
109 10-point type. Nothing in this act may be construed to require
110 the use of the model form of disclosure prescribed by this
111 section. A person shall be deemed to be in compliance with the
112 disclosure requirements stated herein if the person uses the model
113 form of disclosure or uses the model form and changes it by
114 deleting any information which is not required by this act or
115 which does not apply to the particular transaction, by rearranging
116 the format or by adding or combining it with additional
117 information if on making such change, the person does not affect
118 the overall substance and clarity of the disclosure.

119 (2) Except as provided in subsection (3) of this section,
120 the disclosures shall be made no later than the time of
121 consummation of the consumer credit transaction where consumer
122 credit insurance is sold.

123 (3) In connection with open-end or revolving consumer
124 credit, telephonic transactions or transactions where consumer
125 credit insurance is purchased subsequent to the consummation of
126 the consumer credit transaction, the disclosures may be made by
127 mail within thirty (30) days after the purchase of the consumer
128 credit insurance.



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

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

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

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

160 (3) In connection with the offering, solicitation and sale
161 of consumer credit insurance, the creditor, any subsidiary or



162 affiliate of the creditor, the insurer and any employee, agent or
163 representative of the creditor, its subsidiary or affiliate or the
164 insurer, acting in conformity with a written interpretation or
165 approval by an official or employee of any state or federal agency
166 or department, shall be presumed to have acted in accordance with
167 applicable law, notwithstanding that after the act has occurred,
168 the interpretation or approval is amended, rescinded, or
169 determined by judicial or other authority to be incorrect or
170 invalid for any reason.

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

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

187 83-53-17. (1) Any insurer with the prior approval of the
188 commissioner may revise its schedules of premium rates from time
189 to time and shall file the revised schedules with the
190 commissioner. No insurer shall issue any credit life insurance
191 policy or credit disability insurance policy for which the premium
192 rate exceeds that determined by the schedules of the insurer as
193 previously approved by the commissioner.



194 (2) Each individual policy or group certificate shall
195 provide that in the event of termination of the insurance before
196 the scheduled maturity date of the indebtedness, any refund of an
197 amount paid by the debtor for insurance shall be paid or credited
198 promptly by the insurer to the person entitled thereto; provided,
199 however, that no refund of less than Two Dollars (\$2.00) need be
200 made. Except as provided in Sections 4 and 5 of Senate Bill No.
201 2830, 2003 Regular Session, the formula to be used in computing
202 the premium refund shall be the "sum of the digits" formula with
203 respect to decreasing term credit life insurance and credit
204 disability insurance, and the "pro rata" formula with respect to
205 level term credit life insurance. Upon the payment of a death
206 benefit under the credit life insurance coverage, the entire
207 premium shall be considered earned and no refund shall be due.
208 The insurer shall pay or cause to be paid to the debtor any refund
209 due pursuant to this subsection within thirty (30) days of the
210 accrual of such refund.

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

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

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

