

By: Senator(s) Kirby

To: Insurance

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, personal property
36 insurance or involuntary unemployment insurance offered, solicited
37 or sold by or through a creditor, a subsidiary or affiliate of the
38 creditor, or an employee, agent or representative of a creditor or
39 its affiliate or subsidiary in connection with consumer credit
40 where the creditor is a beneficiary of the insurance.

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

51 **SECTION 5.** A consumer who has purchased consumer credit
52 insurance shall have a right to cancel the consumer credit
53 insurance within fifteen (15) calendar days after the date the
54 consumer credit insurance becomes effective and receive a full
55 refund of any premium. If the premium was financed as part of a
56 consumer credit transaction, the refund may, at the option of the
57 creditor, be made to the consumer or by credit to the consumer
58 credit transaction, which credit shall include any finance charge
59 paid or collected on the premium, cancellation of any unpaid
60 finance charge imposed or to be imposed on the premium and
61 adjustment of the amounts of any unpaid installment payments
62 necessary to reflect the reduced amount of the consumer credit
63 transaction. The creditor shall disclose this right of



64 cancellation to the consumer in writing before consummation of the
65 consumer credit transaction as required in Section 6 of this act
66 and in a separate written notice mailed to the insured consumer
67 within five (5) calendar days after the date the consumer credit
68 insurance becomes effective. Nothing in this section shall be
69 construed to prohibit a creditor from requiring insurance other
70 than consumer credit insurance as a condition of consumer credit,
71 subject, however, to applicable law.

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

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

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

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

92 (d) If the consumer purchases consumer credit insurance
93 from the creditor or a subsidiary or affiliate of the creditor,
94 the creditor, subsidiary or affiliate or the insurance agent may
95 receive a commission that may be a significant portion of the
96 premium charged the consumer for the consumer credit insurance.



97 (e) A creditor may not include the premium for consumer
98 credit insurance as part of a consumer credit transaction without
99 the written consent of the consumer. If the premium for consumer
100 credit insurance is financed as part of the consumer credit
101 transaction, the consumer also will incur finance charge on the
102 consumer credit insurance premium.

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

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

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

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

122 The regulation shall include model disclosure forms and
123 clauses to facilitate compliance with the disclosure requirements
124 of this section utilizing readily understandable language to
125 simplify the technical nature of the disclosure. Nothing in this
126 act may be construed to require the use of any such model form or
127 clause prescribed by the commissioner under this section. A
128 person shall be deemed to be in compliance with the disclosure
129 requirements stated in this section if the person uses any



130 appropriate model form or clause as published by the commissioner
131 or uses any such model form or clause and changes it by deleting
132 any information that is not required by this act, by rearranging
133 the format or by adding additional information if on making that
134 change, the person does not affect the substance, clarity or
135 meaningful sequence of the disclosure.

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

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

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

155 (2) In connection with the offering, solicitation and sale
156 of consumer credit insurance, the creditor, any subsidiary or
157 affiliate of the creditor, the insurer and any employee, agent or
158 representative of the creditor, its subsidiary or affiliate or the
159 insurer shall have no liability for any act or practice done or
160 omitted in conformity with (a) any rule or regulation of the
161 commissioner, or (b) any rule, regulation, interpretation or
162 approval of any other state or federal agency or any opinion of



163 the Attorney General, notwithstanding that after the act or
164 omission has occurred the rule, regulation, interpretation,
165 approval or opinion is amended, rescinded, or determined by
166 judicial or other authority to be invalid for any reason.

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

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

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

193 83-53-17. (1) Any insurer with the prior approval of the
194 commissioner may revise its schedules of premium rates from time
195 to time and shall file the revised schedules with the



196 commissioner. No insurer shall issue any credit life insurance
197 policy or credit disability insurance policy for which the premium
198 rate exceeds that determined by the schedules of the insurer as
199 previously approved by the commissioner.

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

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

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

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

