

**\*\*\*Adopted\*\*\*  
AMENDMENT No. 2 PROPOSED TO**

**House Bill NO. 1227**

**By Senator(s) Robertson**

1 **Amend by deleting lines 35 and 36 and inserting in lieu thereof**  
2 **the following:**

3 **SECTION 2.** Sections 2 through 12 of this act shall be known  
4 and may be cited as the Mississippi Credit Insurance Consumer  
5 Protection Act.

6 **SECTION 3.** Sections 2 through 12 of this act is remedial in  
7 nature and is intended to establish additional consumer safeguards  
8 in connection with consumer credit insurance sales practices of  
9 creditors and related persons, to clarify the duties of creditors  
10 and related persons in connection with consumer credit insurance  
11 sales practices, and to clarify the ability of creditors and  
12 related persons to rely upon compliance with applicable federal  
13 and state statutes and regulations concerning consumer credit  
14 insurance sales practices. Enactment of Sections 2 through 12 of  
15 this act shall not be construed to create any implication that any  
16 creditor or other person previously possessed any fiduciary or  
17 similar obligations to consumers with respect to the offering,  
18 solicitation or sale of consumer credit insurance.

19 **SECTION 4.** As used in Sections 2 through 12 of this act, the  
20 following words and phrases shall have the following meanings:

21 (a) "Creditor" means a creditor as defined in Section  
22 83-53-3(2)(d).

23 (b) "Consumer" means a natural person to whom consumer

24 credit is offered or extended.

25 (c) "Consumer credit" means credit offered or extended  
26 to a consumer primarily for personal, family or household  
27 purposes.

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

37 **SECTION 5.** When an extension of consumer credit is  
38 refinanced by the original creditor and the refinancing includes  
39 cancellation of existing consumer credit insurance and purchase of  
40 a similar type of consumer credit insurance from the original  
41 insurer, any refund of unearned premium for the cancelled consumer  
42 credit insurance shall be calculated using a method no less  
43 favorable to the consumer than the rule of anticipation method  
44 pursuant to which the refund is the premium for a policy of  
45 consumer credit insurance having the same benefits and term as the  
46 unexpired coverage using the original rate schedule of the  
47 cancelled policy.

48 **SECTION 6.** A consumer who has purchased consumer credit  
49 insurance shall have a right to cancel the consumer credit  
50 insurance within fifteen (15) calendar days after the disclosures  
51 required by Section 7 of this act are made and receive a full  
52 refund of any premium. If the premium was financed as part of a  
53 consumer credit transaction, the refund may, at the option of the  
54 creditor, be made to the consumer or by credit to the consumer  
55 credit transaction. If the creditor chooses to make the refund by  
56 credit to the consumer credit transaction, the credit shall  
57 include any finance charge paid or collected on the premium,  
58 cancellation of any unpaid finance charge imposed or to be imposed

59 on the premium and adjustment of the amounts of any unpaid  
60 installment payments necessary to reflect the reduced amount of  
61 the consumer credit transaction. Nothing in Sections 2 through 12  
62 of this act shall be construed to prohibit a creditor from  
63 requiring, as a condition of consumer credit, property insurance  
64 or other forms of insurance coverage which are not consumer credit  
65 insurance as defined in Sections 2 through 12 of this act,  
66 subject, however, to applicable law.

67 **SECTION 7.** (1) All agents for the sale of consumer credit  
68 insurance shall make or cause to be made to the consumer the  
69 following disclosures in connection with the sale of consumer  
70 credit insurance:

71 (a) The creditor may not require you to purchase  
72 consumer credit insurance from the creditor, a subsidiary or  
73 affiliate of the creditor or any particular insurance agent in  
74 order to obtain a loan.

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

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

81 (d) If you purchase consumer credit insurance from the  
82 creditor or a subsidiary or affiliate of the creditor, the  
83 creditor, subsidiary or affiliate or the insurance agent may  
84 receive a commission that may be a significant portion of the  
85 premium charged you for the consumer credit insurance.

86 (e) The creditor may not include the premium for  
87 consumer credit insurance as part of a consumer credit transaction  
88 without your written consent. If you finance the premium for  
89 consumer credit insurance, you will also incur finance charge on  
90 the premium at the rate applicable to the consumer credit  
91 transaction.

92 (f) You have the right to cancel the consumer credit  
93 insurance within fifteen (15) calendar days and receive a full

94 refund of the premium.

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

98 (h) A copy of the consumer credit insurance policy or a  
99 certificate describing the amount, term, limitations and  
100 exclusions, refund methods and other important terms of the  
101 consumer credit insurance coverage is required to be delivered to  
102 you. You should review the policy or certificate carefully.

103 The disclosures shall be in writing printed in at least  
104 10-point type. Nothing in Sections 2 through 12 of this act may  
105 be construed to require the use of the model form of disclosure  
106 prescribed by this section. A person shall be deemed to be in  
107 compliance with the disclosure requirements stated herein if the  
108 person uses the model form of disclosure or uses the model form  
109 and changes it by deleting any information which is not required  
110 by this act or which does not apply to the particular transaction,  
111 by rearranging the format or by adding or combining it with  
112 additional information if on making such change, the person does  
113 not affect the overall substance and clarity of the disclosure.

114 (2) Except as provided in subsection (3) of this section,  
115 the disclosures shall be made no later than the time of  
116 consummation of the consumer credit transaction where consumer  
117 credit insurance is sold.

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

124 **SECTION 8.** A creditor shall timely make all written  
125 disclosures that are expressly required under applicable federal  
126 or state statutes or regulations to be made to a consumer in  
127 connection with the offering, solicitation or sale of consumer  
128 credit insurance.

129           **SECTION 9.** A creditor shall not charge or collect consumer  
130 credit insurance premiums or related finance charge or other  
131 charges in amounts that exceed any limits expressly imposed by  
132 applicable federal or state statutes or regulations. Premiums,  
133 fees or other charges that exceed any such express limits shall be  
134 subject to Section 75-17-25.

135           **SECTION 10.** (1) In connection with the offering,  
136 solicitation and sale of consumer credit insurance, the creditor,  
137 any subsidiary or affiliate of the creditor, the insurer and any  
138 employee, agent or representative of the creditor, its subsidiary  
139 or affiliate or the insurer have only those duties and  
140 responsibilities expressly imposed upon them under Sections 2  
141 through 12 of this act and other applicable federal and state  
142 statutes and regulations, whether now existing or hereafter  
143 enacted or amended.

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

156           (3) In connection with the offering, solicitation and sale  
157 of consumer credit insurance, the creditor, any subsidiary or  
158 affiliate of the creditor, the insurer and any employee, agent or  
159 representative of the creditor, its subsidiary or affiliate or the  
160 insurer, acting in conformity with a written interpretation or  
161 approval by an official or employee of any state or federal agency  
162 or department, shall be presumed to have acted in accordance with  
163 applicable law, notwithstanding that after the act has occurred,

164 the interpretation or approval is amended, rescinded, or  
165 determined by judicial or other authority to be incorrect or  
166 invalid for any reason.

167 **SECTION 11.** A cause of action by a consumer based on any  
168 alleged actions or omissions of a creditor, a subsidiary or  
169 affiliate of the creditor, the insurer or any employee, agent or  
170 representative of the creditor, its subsidiary or affiliate, or  
171 the insurer in connection with the offering, solicitation or sale  
172 of consumer credit insurance occurs, accrues and is discoverable  
173 at the time the creditor makes the written disclosures that are  
174 expressly required under applicable federal or state statutes or  
175 regulations to be made to the consumer in connection with the  
176 offering, solicitation or sale of consumer credit insurance. In  
177 connection with any such cause of action, the act or omission or  
178 event which causes the injury occurs in the county where the  
179 consumer credit transaction is entered into between the creditor  
180 and the consumer.

181 **SECTION 12.** Section 83-53-17, Mississippi Code of 1972, is  
182 amended as follows:

183 83-53-17. (1) Any insurer with the prior approval of the  
184 commissioner may revise its schedules of premium rates from time  
185 to time and shall file the revised schedules with the  
186 commissioner. No insurer shall issue any credit life insurance  
187 policy or credit disability insurance policy for which the premium  
188 rate exceeds that determined by the schedules of the insurer as  
189 previously approved by the commissioner.

190 (2) Each individual policy or group certificate shall  
191 provide that in the event of termination of the insurance before  
192 the scheduled maturity date of the indebtedness, any refund of an  
193 amount paid by the debtor for insurance shall be paid or credited  
194 promptly by the insurer to the person entitled thereto; provided,  
195 however, that no refund of less than Two Dollars (\$2.00) need be  
196 made. Except as provided in Sections 5 and 6 of House Bill No.  
197 1227, 2003 Regular Session, the formula to be used in computing  
198 the premium refund shall be the "sum of the digits" formula with

199 respect to decreasing term credit life insurance and credit  
200 disability insurance, and the "pro rata" formula with respect to  
201 level term credit life insurance. Upon the payment of a death  
202 benefit under the credit life insurance coverage, the entire  
203 premium shall be considered earned and no refund shall be due.  
204 The insurer shall pay or cause to be paid to the debtor any refund  
205 due pursuant to this subsection within thirty (30) days of the  
206 accrual of such refund.

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

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

218 **SECTION 13.** Section 1 of this act shall take effect and be  
219 in force from and after its passage. Sections 2 through 12 of  
220 this act shall take effect and be in force from and after July 1,  
221 2003.

222

223 **Further, amend the title by inserting on line 6 after the**  
224 **semicolon the following:**

225 TO CREATE THE MISSISSIPPI CREDIT INSURANCE CONSUMER  
226 PROTECTION ACT; TO PROVIDE ADDITIONAL CONSUMER PROTECTIONS IN  
227 CONNECTION WITH THE SALE OF CREDIT INSURANCE; TO REQUIRE  
228 ADDITIONAL DISCLOSURES TO CONSUMERS IN CONNECTION WITH THE SALE OF  
229 CREDIT INSURANCE; TO CLARIFY THE DUTIES AND RESPONSIBILITIES OF  
230 CREDITORS AND RELATED PERSONS IN CONNECTION WITH THE SALE OF  
231 CREDIT INSURANCE; TO AMEND SECTION 83-53-17, MISSISSIPPI CODE OF  
232 1972, TO CONFORM TO THE PRECEDING PROVISIONS;