

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

HOUSE BILL NO. 1229

By Senator Kirby

1 **AMEND** by inserting the following sections after line
2 **50 and renumbering the succeeding section accordingly:**

3 SECTION 2. Sections 2 through 6 of this act may be
4 cited as the "Mississippi Insurance Sales Consumer
5 Protection Act."

6 SECTION 3. For the purpose of Sections 2 through 6 of
7 this act:

8 (a) "Lending institution" means any entity which
9 has a place of business in this state at which it accepts
10 deposits of money from the public and lends money,
11 including banks and savings and loan associations.

12 (b) "Subsidiary" means any person or entity
13 which is controlled by a lending institution or its
14 affiliate.

15 (c) "Affiliate" means any person or entity which
16 controls or is under common control with a lending
17 institution.

18 (d) "Control" means the power to exercise a
19 deciding influence over the management of a lending
20 institution, unless the power is solely the result of an
21 official position with the lending institution.

22 (e) "Insurance" means all products defined or
23 regulated as insurance pursuant to Section 83-1-1 et seq.,
24 except:

(i) Credit life, credit accident and health credit property, credit casualty, credit involuntary unemployment, mortgagor's decreasing term life, and mortgagor's accident and health and sickness insurance;

(ii) Insurance placed by a financial institution in connection with collateral pledged as security for a loan when the debtor breaches the contractual obligation to provide that insurance; and

(iii) Private mortgage insurance.

SECTION 4. (1) The following shall apply when insurance is required as a condition of obtaining a loan or extension of credit.

(a) Solicitation for the purchase or sale of insurance shall be conducted only by individuals who are not primarily responsible for making a loan or extension of credit when such insurance solicitation is in connection with such specific loan or extension of credit;

(b) The loan or extension of credit and related insurance transactions shall be completed independently and through separate documentation; and

(c) A loan for premiums on required insurance shall not be included in the primary credit without the written consent of the customer.

(2) Nothing in this section shall be construed to prohibit lending institution personnel from informing customers that insurance is required in order to obtain a loan or extension of credit or that loan or extension of credit approval is contingent upon the customer obtaining acceptable insurance. Lending institution personnel may also inform customers that insurance is available from the lending institution, its subsidiary, an affiliate or particular unaffiliated third parties, and indicate how to obtain additional information.

SECTION 5. The following requirements shall apply to insurance sales activities conducted by lending institutions,

59 their employees, subsidiaries, affiliates and unaffiliated third
60 parties conducting such insurance sales activities (i) on behalf
61 of a lending institution which involves the use of a lending
62 institution brand name, or (ii) on lending institution premises:

63 (a) (i) Disclosures. The following disclosures are
64 required with respect to the solicitation of life insurance and
65 annuities and shall be made during the initial customer contact,
66 including communication by telephone or other electronic means:

67 (A) That an insurance product is not FDIC
68 insured;

69 (B) That an insurance product is not a
70 deposit or obligation of the lending institution;

71 (C) Where appropriate, that certain
72 insurance products involve investment risks, including the
73 possible loss of principal.

74 (ii) For related credit and insurance
75 transactions, the following disclosures shall be made in writing
76 and signed by the customer, at or prior to the closing of the
77 insurance sale, acknowledging that the customer has received, has
78 read and understands that:

79 (A) The customer need not purchase insurance
80 from the lending institution, its subsidiary, an affiliate or any
81 particular unaffiliated third party;

82 (B) The insurance is available through other
83 licensed brokers or agents; and

84 (b) Physical location of insurance activities.
85 Insurance sales activities on lending institution premises shall
86 be conducted in a manner so as to minimize customer confusion by:

87 (i) Conducting such activities to the extent
88 practicable in a location separate and distinct from the area
89 where retail deposit, loan making or extension of credit
90 activities occurs; and

91 (ii) Identifying the area where insurance
92 activities are conducted with appropriate signage as to be easily

distinguishable by the public as separate and distinct from
deposit and lending activities of the lending institution.

SECTION 6. (1) No person shall utilize nonpublic customer
information in connection with the solicitation or sale of
insurance products to individuals, unless it is clearly disclosed
to the individual that the nonpublic customer information may be
so utilized. Provided, however, when such disclosure is made to
an individual, the individual must also be instructed how and
given the opportunity to indicate that he or she does not want
such nonpublic customer information disclosed or utilized for the
marketing of insurance.

(2) For purposes of this subsection, "nonpublic customer
information" means information regarding an individual that has
been derived from the record of a lending institution relating to
its operation other than insurance activities; provided, however,
that "nonpublic customer information" shall not include
information regarding an individual that may be obtained by
lending institutions or shared with their affiliates or
unaffiliated third parties subject to the provisions of the Fair
Credit Reporting Act.