

*****Adopted*****

AMENDMENT No. 2 TO AMENDMENT No. 1 PROPOSED TO

House Bill NO. 1229

By Senator(s) Hewes

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

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

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

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

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

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

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

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

21 (i) Credit life, credit accident and health credit
22 property, credit casualty, credit involuntary unemployment,
23 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, their employees, subsidiaries, affiliates and unaffiliated third parties conducting such insurance sales activities (i) on behalf

99\SS02\HB1229A.2J *SS02\HB1229A.2J*

of a lending institution which involves the use of a lending institution brand name, or (ii) on lending institution premises:

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

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

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

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

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

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

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

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

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

(ii) Identifying the area where insurance activities are conducted with appropriate signage as to be easily distinguishable by the public as separate and distinct from

99\SS02\HB1229A.2J *SS02\HB1229A.2J*

90 deposit and lending activities of the lending institution.

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

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