

By: Van de Putte

S.B. No. 1211

A BILL TO BE ENTITLED

AN ACT

relating to collateral protection insurance.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 307.051, Finance Code, is amended by amending Subsection (e) and adding Subsection (e-1) to read as follows:

(e) A premium for collateral protection insurance covering collateral other than real property may not be based on an amount that exceeds the actual amount of unpaid indebtedness of the debtor as of the effective date of the policy. This condition applies without regard to whether the coverage under the policy limits the insurer's liability to:

- (1) the amount of unpaid debt;
- (2) the cash value of the collateral; or
- (3) the cost of repair of the collateral.

(e-1) With respect to collateral protection insurance covering real property, a creditor, at the creditor's option, may obtain insurance that will cover either the replacement cost of improvements or the amount of unpaid indebtedness, subject to policy limits. The debtor shall be obligated to reimburse the creditor for the premium, interest, and any other charges incurred by the creditor in connection with the placement of the insurance. The creditor may use the previous evidence of insurance coverage furnished by the debtor to determine the sufficient level of

1 replacement cost coverage to be provided.

2 SECTION 2. Subsections (a) and (b), Section 307.052,
3 Finance Code, are amended to read as follows:

4 (a) A creditor who requires collateral protection insurance
5 that is paid for directly or indirectly by a debtor may place
6 collateral protection insurance if:

7 (1) the debtor has entered into a credit transaction
8 with the creditor for which a credit agreement exists;

9 (2) the credit agreement requires the debtor to
10 maintain insurance on the collateral; and

11 (3) a notice has been included in the credit agreement
12 or a separate document provided to the debtor at the time the credit
13 agreement is executed that states that:

14 (A) the debtor is required to:

15 (i) keep the collateral insured against
16 damage in the amount the creditor specifies [~~equal to the debtor's~~
17 ~~indebtedness to the creditor~~];

18 (ii) purchase the insurance from an insurer
19 that is authorized to do business in this state or an eligible
20 surplus lines insurer; and

21 (iii) name the creditor as the person to be
22 paid under the policy in the event of a loss;

23 (B) the debtor must, if required by the creditor,
24 deliver to the creditor a copy of the policy and proof of the
25 payment of premiums; and

26 (C) if the debtor fails to meet any requirement
27 listed in Paragraph (A) or (B), the creditor may obtain collateral

1 protection insurance on behalf of the debtor at the debtor's
2 expense.

3 (b) Not later than the 31st day after the date the
4 collateral protection insurance is charged to the debtor, the
5 creditor, by prepaid, first class mail, shall mail to each debtor at
6 the last known address on file with the creditor a notice that
7 states:

8 (1) that the creditor has purchased or will purchase
9 collateral protection insurance on behalf of the debtor and at the
10 debtor's expense as provided by the credit agreement;

11 (2) the type of insurance that the creditor has
12 obtained or will obtain, the extent of the coverage, and whose
13 interest the policy protects;

14 (3) the beginning and ending dates of the policy
15 period;

16 (4) the total cost of the policy to the debtor;

17 (5) the annual interest rate charged on the cost of
18 insurance if that rate is different from the rate charged in the
19 related credit transaction;

20 (6) the manner in which the debtor may pay the cost of
21 insurance, interest, or finance charge relating to the purchase of
22 the collateral protection insurance; ~~and~~

23 (7) at the option of the creditor, other repayment
24 options to which the debtor has agreed in the original credit
25 transaction; and

26 (8) if collateral protection insurance covering real
27 property is obtained under Section 307.051(e-1):

1 (A) that coverage may be available to the debtor
2 through the Texas FAIR plan at a lower cost; and

3 (B) contact information about the Texas FAIR
4 plan.

5 SECTION 3. The change in law made by this Act applies only
6 to a credit agreement entered into on or after the effective date of
7 this Act. A credit agreement entered into before the effective date
8 of this Act is governed by the law in effect when the credit
9 agreement was entered into, and the former law is continued in
10 effect for that purpose.

11 SECTION 4. This Act takes effect immediately if it receives
12 a vote of two-thirds of all the members elected to each house, as
13 provided by Section 39, Article III, Texas Constitution. If this
14 Act does not receive the vote necessary for immediate effect, this
15 Act takes effect September 1, 2003.