

1-1 By: Van de Putte S.B. No. 1211
1-2 (In the Senate - Filed March 12, 2003; March 19, 2003, read
1-3 first time and referred to Committee on Business and Commerce;
1-4 April 22, 2003, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 9, Nays 0; April 22, 2003,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1211 By: Van de Putte

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to collateral protection insurance.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Section 307.051, Finance Code, is amended by
1-13 amending Subsection (e) and adding Subsection (e-1) to read as
1-14 follows:

1-15 (e) A premium for collateral protection insurance covering
1-16 collateral other than real property may not be based on an amount
1-17 that exceeds the actual amount of unpaid indebtedness of the debtor
1-18 as of the effective date of the policy. This condition applies
1-19 without regard to whether the coverage under the policy limits the
1-20 insurer's liability to:

- 1-21 (1) the amount of unpaid debt;
1-22 (2) the cash value of the collateral; or
1-23 (3) the cost of repair of the collateral.

1-24 (e-1) With respect to collateral protection insurance
1-25 covering real property, a creditor, at the creditor's option, may
1-26 obtain insurance that will cover either the replacement cost of
1-27 improvements or the amount of unpaid indebtedness, subject to
1-28 policy limits. The debtor shall be obligated to reimburse the
1-29 creditor for the premium, interest, and any other charges incurred
1-30 by the creditor in connection with the placement of the insurance.
1-31 The creditor may use the previous evidence of insurance coverage
1-32 furnished by the debtor to determine the sufficient level of
1-33 replacement cost coverage to be provided.

1-34 SECTION 2. Subsections (a) and (b), Section 307.052,
1-35 Finance Code, are amended to read as follows:

1-36 (a) A creditor who requires collateral protection insurance
1-37 that is paid for directly or indirectly by a debtor may place
1-38 collateral protection insurance if:

1-39 (1) the debtor has entered into a credit transaction
1-40 with the creditor for which a credit agreement exists;

1-41 (2) the credit agreement requires the debtor to
1-42 maintain insurance on the collateral; and

1-43 (3) a notice has been included in the credit agreement
1-44 or a separate document provided to the debtor at the time the credit
1-45 agreement is executed that states that:

1-46 (A) the debtor is required to:

1-47 (i) keep the collateral insured against
1-48 damage in the amount the creditor specifies ~~[equal to the debtor's~~
1-49 ~~indebtedness to the creditor]~~;

1-50 (ii) purchase the insurance from an insurer
1-51 that is authorized to do business in this state or an eligible
1-52 surplus lines insurer; and

1-53 (iii) name the creditor as the person to be
1-54 paid under the policy in the event of a loss;

1-55 (B) the debtor must, if required by the creditor,
1-56 deliver to the creditor a copy of the policy and proof of the
1-57 payment of premiums; and

1-58 (C) if the debtor fails to meet any requirement
1-59 listed in Paragraph (A) or (B), the creditor may obtain collateral
1-60 protection insurance on behalf of the debtor at the debtor's
1-61 expense.

1-62 (b) Not later than the 31st day after the date the
1-63 collateral protection insurance is charged to the debtor, the

2-1 creditor, by prepaid, first class mail, shall mail to each debtor at
2-2 the last known address on file with the creditor a notice that
2-3 states:

2-4 (1) that the creditor has purchased or will purchase
2-5 collateral protection insurance on behalf of the debtor and at the
2-6 debtor's expense as provided by the credit agreement;

2-7 (2) the type of insurance that the creditor has
2-8 obtained or will obtain, the extent of the coverage, and whose
2-9 interest the policy protects;

2-10 (3) the beginning and ending dates of the policy
2-11 period;

2-12 (4) the total cost of the policy to the debtor;

2-13 (5) the annual interest rate charged on the cost of
2-14 insurance if that rate is different from the rate charged in the
2-15 related credit transaction;

2-16 (6) the manner in which the debtor may pay the cost of
2-17 insurance, interest, or finance charge relating to the purchase of
2-18 the collateral protection insurance; ~~and~~

2-19 (7) at the option of the creditor, other repayment
2-20 options to which the debtor has agreed in the original credit
2-21 transaction; and

2-22 (8) if collateral protection insurance covering real
2-23 property is obtained under Section 307.051(e-1):

2-24 (A) that coverage may be available to the debtor
2-25 through the Texas FAIR plan at a lower cost; and

2-26 (B) contact information about the Texas FAIR
2-27 plan.

2-28 SECTION 3. The change in law made by this Act applies only
2-29 to a credit agreement entered into on or after the effective date of
2-30 this Act. A credit agreement entered into before the effective date
2-31 of this Act is governed by the law in effect when the credit
2-32 agreement was entered into, and the former law is continued in
2-33 effect for that purpose.

2-34 SECTION 4. This Act takes effect immediately if it receives
2-35 a vote of two-thirds of all the members elected to each house, as
2-36 provided by Section 39, Article III, Texas Constitution. If this
2-37 Act does not receive the vote necessary for immediate effect, this
2-38 Act takes effect September 1, 2003.

2-39 * * * * *