

1 **State of Arkansas**  
2 **79th General Assembly**  
3 **Regular Session, 1993**

# **A Bill**

**ACT 932 OF 1993**  
**HOUSE BILL 1349**

4 **By: Representatives McGee and Walker**

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## **For An Act To Be Entitled**

8 "AN ACT TO DEFINE HOME SERVICE INSURANCE, AND TO DEFINE  
9 HOME SERVICE INSURANCE DECEPTIVE PRACTICES; AND FOR OTHER  
10 PURPOSES."

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## **Subtitle**

13 "TO DEFINE HOME SERVICE INSURANCE, AND TO DEFINE HOME  
14 SERVICE INSURANCE DECEPTIVE PRACTICES."

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16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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18 SECTION 1. Short Title. This act may be cited as the "Home Service  
19 Act".

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21 SECTION 2. Definitions. As used in this act:

22 (a) "Home service insurance" means any property, casualty, life or  
23 disability insurance policy where such policy is marketed, sold, issued or  
24 delivered through the debit system, whereby premiums for such policy are  
25 customarily collected at the payor's home or business by an agent of the  
26 company to whose account such premiums are debited by the company.

27 (b) "Commissioner" means the Insurance Commissioner of this state.

28 (c) "*Blind advances*" means when an agent collects premiums from a  
29 policyholder where no premiums are due and owed at the time collected and,  
30 without the knowledge of the policyholder, credits the premiums collected to  
31 coverage which the policyholder has or may purchase in the future.

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33 SECTION 3. Rules and Regulations. The Commissioner shall have such  
34 authority as he deems reasonably necessary to regulate home service insurance,  
35 and to that end, to promulgate, adopt and enforce reasonable rules and  
36 regulations necessary and proper to regulate home service insurance.

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*SECTION 4. Required practices.*

*Each home service insurance company doing business in this state shall:*

*(a) establish a written system of auditing which complies with statutory accounting practices, and audit each individual debit periodically or upon the happening of some event and shall file such system with the Commissioner or file a certification with the Commissioner that such system has been adopted; and*

*(b) provide notice to the policy holder, insured, or premium payor that the policy may be issued for the premiums to be collected on a weekly or monthly basis; however, a premium savings may be realized from less frequent collection by the agent or direct payment to the home office; and*

*(c) provide notice to the policyholders, insured, or premium payor that such person is still responsible for making premium payments even when the agent does not collect such premium payments and the insurer shall furnish its mailing and street address.*

*SECTION 5. Premiums.*

*For every premium collected on a policy of property, casualty, life or disability insurance in this state, the agent collecting or receiving such premium shall:*

*(a) furnish the payor with written evidence of payment which shall include the amount paid, date paid, policy for which the payment will be credited, signature or signed initials of the agent, and office address and phone number of the insurer; and*

*(b) remit to the insurer such premium in the regular course of business and properly account for such collection on the records of the insurer; and*

*(c) provide the policyholder, payor, or insured with a receipt or other written verification of the current premium status at any time the written evidence of payment previously provided is relinquished by or otherwise taken from the policyholder, payor, or insured.*

*SECTION 6. Deceptive practices.*

*It shall be a deceptive practice to demand, charge, collect, receive, or attempt to demand, charge, collect or receive "blind advances".*

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SECTION 7. Private cause of action.

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3 No violation of this act shall be deemed to give rise to a private cause  
4 of action.

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SECTION 8. Violations.

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7 (a) The commissioner shall conduct all hearings held pursuant to  
8 allegations of violations of this act pursuant to Arkansas Code Sections 23-  
9 61-303, 23-61-304, 23-61-305, 23-61-306, and 23-61-307.

10 (b) The Commissioner may suspend for up to twelve (12) months, or may  
11 revoke or refuse to continue, any license issued by him which is the subject  
12 of an administrative hearing held pursuant to a violation of this act.

13 (c) The Commissioner may additionally impose upon the licensee an  
14 administrative penalty in the amount of not more than one thousand dollars  
15 (\$1,000) for each and every act or violation, but not to exceed an aggregate  
16 penalty of ten thousand dollars (\$10,000), unless the person knew or  
17 reasonably should have known he was in violation of this act. In this case,  
18 the penalty shall be not more than five thousand dollars (\$5,000) for each and  
19 every act or violation, but in an amount not to exceed an aggregate penalty of  
20 fifty thousand dollars (\$50,000) in any six (6) month period.

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SECTION 9. Effective date. Compliance with this act shall be required  
23 for all home service insurance transactions on and after January 1, 1994.

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SECTION 10. All provisions of this act of a general and permanent  
26 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas  
27 Code Revision Commission shall incorporate the same in the Code.

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SECTION 11. If any provision of this act or the application thereof to  
30 any person or circumstance is held invalid, such invalidity shall not affect  
31 other provisions or applications of the act which can be given effect without  
32 the invalid provision or application, and to this end the provisions of this  
33 act are declared to be severable.

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SECTION 12. All laws and parts of laws in conflict with this act are

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1 hereby repealed.

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*/s/Rep. McGee, et al*

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APPROVED: 4/7/93

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***As Engrossed: 2/10/93 4/2/93***

**HB 1349**

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