

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

# **A Bill**

**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

1 regulations necessary and proper to regulate home service insurance.

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3       SECTION 4. Required practices.

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

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

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

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

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19       SECTION 5. Premiums.

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

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

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

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

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34       SECTION 6. Deceptive practices.

35       It shall be a deceptive practice to demand, charge, collect, receive, or

1 attempt to demand, charge, collect or receive "blind advances".

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3 SECTION 7. Private cause of action.

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

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7 SECTION 8. Violations.

8 (a) The commissioner shall conduct all hearings held pursuant to  
9 allegations of violations of this act pursuant to Arkansas Code Sections 23-  
10 61-303, 23-61-304, 23-61-305, 23-61-306, and 23-61-307.

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

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

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

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

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

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1           SECTION 12. All laws and parts of laws in conflict with this act are  
2 hereby repealed.

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*/s/Rep. McGee, et al*