

As Engrossed: 3/15/95 3/20/95 3/22/95

1 **State of Arkansas**
2 **80th General Assembly**
3 **Regular Session, 1995**

A Bill

ACT 1306 OF 1995
HOUSE BILL 2036

4 **By: Representatives Von Gremp and Lynn**

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For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE 4-88-107(a) TO INCLUDE
9 AMONG THE LISTED DECEPTIVE AND UNCONSCIONABLE TRADE
10 PRACTICES THE MARKETING, ASSEMBLY, DRAFTING, OR FUNDING OF
11 TRUST DOCUMENTS BY A NON-LAWYER; TO PROVIDE FOR
12 EXEMPTIONS; AND FOR OTHER PURPOSES."

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Subtitle

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"AN ACT CONCERNING DECEPTIVE TRADE
16 PRACTICES."

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

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20 SECTION 1. Arkansas Code 4-88-107(a) is amended to read as follows:

21 "4-88-107. Deceptive and unconscionable trade practices generally

22 (a) Deceptive and unconscionable trade practices made unlawful and
23 prohibited by this chapter include, but are not limited to, the following:

24 (1) Knowingly making a false representation as to the
25 characteristics, ingredients, uses, benefits, alterations, source,
26 sponsorship, approval, or certification of goods or services, or as to whether
27 goods are original or new, or of a particular standard, quality, grade, style,
28 or model;

29 (2) Disparaging the goods, services, or business of another by
30 false or misleading representation of fact;

31 (3) Advertising the goods or services with the intent not to sell
32 them as advertised;

33 (4) Refusal of a retailer to deliver to a customer purchasing any
34 electronic or mechanical apparatus the record of warranty and statement of
35 service availability which the manufacturer includes in the original carton or
36 container of the product or the refusal to make available, on request,

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1 information relating thereto;

2 (5) The employment of bait-and-switch advertising, consisting of
3 an attractive but insincere offer to sell a product or service which the
4 seller in truth does not intend or desire to sell, evidenced by a refusal to
5 show or disparagement of the advertised product, the requirement of a tie-in
6 sale or other undisclosed conditions precedent to the purchase, demonstrating
7 a defective product, or other acts demonstrating an intent not to sell the
8 advertised product or services;

9 (6) Knowingly failing to identify flood, water, fire, or
10 accidentally damaged goods as to such damages;

11 (7) Making a false representation that contributions solicited
12 for charitable purposes shall be spent in a specific manner or for specified
13 purposes;

14 (8) Knowingly taking advantage of a consumer who is reasonably
15 unable to protect his or her interest because of physical infirmity,
16 ignorance, illiteracy, inability to understand the language of the agreement,
17 or a similar factor;

18 (9) *The offering for sale, assembly, drafting, of any trust*
19 *document, including a living trust, by a non-lawyer excluding the marketing,*
20 *assembly and funding by bank trust departments and trust companies; and*

21 (10) Engaging in any other unconscionable, false, or deceptive
22 act or practice in business, commerce, or trade."
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24 SECTION 2. All provisions of this act of a general and permanent
25 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
26 Code Revision Commission shall incorporate the same in the Code.
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28 SECTION 3. If any provision of this act or the application thereof to
29 any person or circumstance is held invalid, such invalidity shall not affect
30 other provisions or applications of the act which can be given effect without
31 the invalid provision or application, and to this end the provisions of this
32 act are declared to be severable.
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34 SECTION 4. All laws and parts of laws in conflict with this act are
35 hereby repealed.

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/s/Rep. Von Grep, et al

APPROVED: 4-14-95

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