

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas  
2 81st General Assembly  
3 Regular Session, 1997  
4

As Engrossed: H2/25/97 H2/27/97

## A Bill

ACT 749 OF 1997  
HOUSE BILL 1801

5 By: Representative Brown  
6 By: Senator Walker  
7

### For An Act To Be Entitled

9 "AN ACT TO AMEND ARKANSAS CODE 23-66-401 ET SEQ.,  
10 CONCERNING THE HOME SERVICE ACT, TO AMEND THE DEFINITION  
11 OF HOME SERVICE INSURANCE, TO PROVIDE SUPPLEMENTAL LAWS ON  
12 RECORDKEEPING DUTIES AND TO RESTRICT VARIOUS  
13 SALESPRACTICES; AND FOR OTHER PURPOSES."  
14

### Subtitle

15 "AN ACT CONCERNING THE SALE OF INSURANCE  
16 POLICIES MARKETED THROUGH THE HOME  
17 SERVICE SYSTEM OF MARKETING TO AMEND  
18 VARIOUS DEFINITIONS AND TO PROVIDE  
19 SUPPLEMENTAL LAWS ON RECORDKEEPING AND  
20 VARIOUS SALESPRACTICES."  
21  
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
24

25 SECTION 1. Arkansas Code 23-66-402 is amended to read as follows:  
26 "§ 23-66-402. Definitions.

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

31 (1) A blind is the collection of a premium from a policyowner or  
32 premium payor who is intentionally not made aware of the correct paid-to-  
33 status of the policy for which the premium is to be applied because a premium  
34 intentionally was not properly recorded pursuant to Arkansas Code § 23-66-  
35 405(1).

36 (2) Commissioner means the Insurance Commissioner of this state; and

1 ~~\_\_\_\_\_ (3) Home service insurance means any property, casualty, life, or~~  
2 ~~disability insurance policy where such policy is marketed, sold, issued, or~~  
3 ~~delivered through the debit system, whereby premiums for such policy are~~  
4 ~~customarily collected at the payor's home or business by an agent of the~~  
5 ~~company to whose account such premiums are debited by the company.~~

6 (3) Home service system of distribution is a manner of selling  
7 insurance policies which are customarily marketed, issued, or delivered by an  
8 agent in person at a payors home or business, or is a manner of collecting  
9 premiums in which premiums are customarily collected in person at a payors  
10 home or business by an agent. This shall not include the sale of commercial  
11 policies, crop or hail policies, or term policies covering crops whether  
12 harvested or unharvested, or policies covering grain, hay, chemicals, or  
13 fertilizer.

14 (4) Customarily collected means that in his or her ordinary course of  
15 business, the agent collects premiums for such policy on site at a payors  
16 home or business.

17 (5) Customarily marketed, issued, or delivered means that in his or  
18 her ordinary course of business, the agent markets, issues, or delivers the  
19 policy on site at a payors home or business. Customarily marketed, issued,  
20 or delivered does not include any solicitation or sale made at the home or  
21 workplace of a person, if it will not thereafter be the ordinary course of  
22 business of the agent to either collect premiums from the person on site at  
23 his or her home or workplace, or regularly service the premium payor or  
24 policyowner on site at his or her home or workplace."

25

26 SECTION 2. Arkansas Code 23-66-404 is amended to read as follows"

27 "§ 23-66-404. Required practices.

28 ~~\_\_\_\_\_ Each home service insurance company doing business in this state shall:~~

29 Each insurer engaged in the home service system of distribution of  
30 policies in this state shall:

31 ~~\_\_\_\_\_ (1)(A) Establish a written system of auditing which complies with~~  
32 ~~statutory accounting practices;~~

33 (1)(A) Establish written procedures to audit agencies engaged in the  
34 home service system of distribution of policies in this state;

35 ~~\_\_\_\_\_ (B) File such system with the commissioner or file a~~  
36 ~~certification with the commissioner that such system has been adopted; and~~

1           (B) File the audit procedures in effect each year with the annual  
2 statement or provide a certification with each annual statement that such  
3 procedures have been adopted; and

4           ~~—— (C) Audit each individual debit periodically or upon the~~  
5 ~~happening of some event;~~

6           (C) Conduct audits periodically, or in such manner as described  
7 by rules and regulation, at the field level or premium payor level which  
8 reasonably insure that the premium payors premium recording item or records  
9 accurately reflects the premium due date and premium paid-to-status of the  
10 policy or policies purchased;

11           (D) Provide a receipt, or record to the premium payor reflecting  
12 the amount of the premium paid, the date of payment, and the policy number, or  
13 other identifying characteristics, toward which the premium is paid if the  
14 premium receipt book or other premium recording record is unavailable for  
15 marking the premium payments of the payor.

16           (E) Provide to a policyowner or premium payor upon request the  
17 current paid-to-status of any and all policies owned within forty five (45)  
18 days, and, in the event the records of the policyowner or premium payor  
19 differ, adjust the company records to credit the policy any previously  
20 uncredited payments for which a receipt or other reasonable evidence of  
21 payment is submitted by the policyowner.

22           ~~(2) Provide notice to the policyholder, insured, or premium payor that~~  
23 ~~the policy may be issued for the premiums to be collected on a weekly or~~  
24 ~~monthly basis; however, a premium savings may be realized from less frequent~~  
25 ~~collection by the agent or from direct payment to the home office; and~~

26           ~~—— (3) Provide notice to the policyholder, insured, or premium payor that~~  
27 ~~such person is still responsible for making premium payments even when the~~  
28 ~~agent does not collect such premium payments, and the insurer shall furnish~~  
29 ~~its mailing and street address.~~

30           (2) With the delivery of the policy, provide notice in bold print with  
31 at least ten (10) point font or size which states:

32           (A) that a premium savings may be realized by a different or less  
33 frequent method of premium payment; and

34           (B) that premiums are still due and payable by the person  
35 responsible for premium payments even when an agent does not collect such  
36 premiums; and

1                    (C) the mailing address for payment of premiums to the company."

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3           SECTION 3. Arkansas Code 23-66-405 is amended to read as follows:

4           "§ 23-66-405. Premiums.

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

8 ~~(1) Furnish the payor with written evidence of payment which shall  
9 include the amount paid, the date paid, the policy for which the payment will  
10 be credited, the signature or signed initials of the agent, and the office  
11 address and phone number of the insurer;~~

12           (1) Furnish the payor with written evidence of payment at the time the  
13 premium is collected which shall include the amount paid, the date paid, the  
14 date paid-to-status of the policy, the policy number, or the identifying  
15 characteristics, for which the payment will be credited, the signature or  
16 signed initials of the agent, and the office address and phone number of the  
17 insurer;

18 ~~(2) Remit to the insurer such premium in the regular course of  
19 business and properly account for such collection on the records of the  
insurer; and~~

20           (2) Remit to the insurers home office or applicable district office  
21 the premium collected within ten (10) days of receipt from the premium payor  
22 or policyowner.

23 ~~(3) Provide the policyholder, payor, or insured with a receipt or other  
24 written verification of the current premium status at any time the written  
25 evidence of payment previously provided is relinquished by or otherwise taken  
26 from the policyholder, payor, or insured."~~

27

28           SECTION 4. Arkansas Code 23-66-406 is amended to read as follows:

29           "§ 23-66-406. Deceptive practices.

30 ~~It shall be a deceptive practice to demand, charge, collect, receive, or  
31 attempt to demand, charge, collect, or receive blind advances.~~

32           The following activities, if committed intentionally, shall be deceptive  
33 acts under Arkansas Code § 23-66-201 for companies or agents engaged in the  
34 home service system of distribution:

35           (1) the commission of a blind as defined by Arkansas Code § 23-  
36 66-402(1);

1                   (2) the collection of a premium which is not due from a premium  
2 payor or policyowner, and, without the knowledge of the premium payor or  
3 policyowner, the crediting of that premium to future coverage for a  
4 policyowner;

5                   (3) the collection of a premium which is not due from a premium  
6 payor or policyowner, and, without the knowledge of the premium payor or  
7 policyowner, the crediting of that premium for a different policyowner;

8                   (4) the use or transfer of any excess or unused funds remaining  
9 in the account of the premium payor or policyowner to procure or revive an  
10 insurance policy for a policyowner, without the knowledge or authorization of  
11 the payor;

12                   (5) the collection of a premium by an agent who retains the  
13 premium for his own personal use."

14

15           SECTION 5. Arkansas Code 23-66-403 is amended to read as follows:

16           "§ 23-66-403. Rules and regulations.

17           The commissioner shall have such authority as he deems reasonably  
18 necessary to regulate ~~home service insurance~~ the home service system of  
19 distribution, and, to that end, to promulgate, adopt, and enforce reasonable  
20 rules and regulations necessary and proper to regulate ~~home service insurance~~  
21 the home service system of distribution."

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23           SECTION 6. All provisions of this act of a general and permanent nature  
24 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
25 Revision Commission shall incorporate the same in the Code.

26

27           SECTION 7. If any provision of this act or the application thereof to  
28 any person or circumstance is held invalid, such invalidity shall not affect  
29 other provisions or applications of the act which can be given effect without  
30 the invalid provision or application, and to this end the provisions of this  
31 act are declared to be severable.

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33           SECTION 8. All laws and parts of laws in conflict with this act are  
34 hereby repealed.

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*/s/Rep. Brown*

APPROVED: 3-21-97