

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas
2 82nd General Assembly
3 Regular Session, 1999
4

As Engrossed: H3/22/99 H3/25/99 H3/29/99

A Bill

Act 1512 of 1999
HOUSE BILL 2246

5 By: Representatives Hathorn, Laverty, Sheppard, Prater, Lynn, Creekmore, Harris, Broadway, P.
6 Malone, Teague
7
8

For An Act To Be Entitled

9
10 "AN ACT TO PROHIBIT TELEMARETERS FROM SUBMITTING FOR
11 PAYMENT A CHECK, DRAFT OR OTHER FORM OF NEGOTIABLE
12 INSTRUMENT DRAWN ON A PERSON'S CHECKING, SAVINGS,
13 SHARE OR OTHER DEPOSITORY ACCOUNT WITHOUT THE
14 CONSUMER'S EXPRESS WRITTEN AUTHORIZATION; AND FOR
15 OTHER PURPOSES. "
16

Subtitle

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18 "TO PROHIBIT TELEMARETERS FROM
19 SUBMITTING FOR PAYMENT A CHECK, DRAFT OR
20 OTHER FORM OF NEGOTIABLE INSTRUMENT
21 WITHOUT THE CONSUMER'S EXPRESS WRITTEN
22 AUTHORIZATION. "
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25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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27 SECTION 1. Title 4, Chapter 99, Subchapter 2 is amended to add the
28 following new section to be appropriately numbered by the Arkansas Code
29 Revision Commission:

30 "(a) For the purposes of this section, 'telemarketer' means any person
31 who initiates telephone calls to, or who receives telephone calls from a
32 consumer in connection with a plan, program or campaign to market goods and
33 services. The term 'telemarketer' does not include a federally-insured
34 depository institution or its subsidiary when it obtains or submits for
35 payment a check, draft or other form of negotiable instrument drawn on or
36 debited against a person's checking, savings, share or other depository

1 account at that institution.

2 (b) It shall be unlawful for any telemarketer as defined in subsection
3 (a) to obtain or submit for payment a check, draft or other form of negotiable
4 instrument drawn on a person's checking, savings, share or other depository
5 account without the consumer's express written authorization. For the purpose
6 of this section, a check bearing the valid signature of the consumer shall
7 constitute the consumer's express written authorization.

8 (c) A violation of the provisions of this section shall constitute an
9 unfair and deceptive act or practice as defined by the Deceptive Trade
10 Practices Act. All remedies, penalties and authority granted to the Attorney
11 General under the Deceptive Trade Practices Act shall be available to the
12 Attorney General for the enforcement of this section.

13 (d) Nothing in this section limits the rights or remedies which are
14 otherwise available to a consumer under any other law.

15 (e) The obligations under this section are cumulative and should in no
16 way be deemed to limit the obligations under any other law."

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18 SECTION 2. All provisions of this act of a general and permanent nature
19 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
20 Revision Commission shall incorporate the same in the Code.

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22 SECTION 3. If any provision of this act or the application thereof to
23 any person or circumstance is held invalid, such invalidity shall not affect
24 other provisions or applications of the act which can be given effect without
25 the invalid provision or application, and to this end the provisions of this
26 act are declared to be severable.

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28 SECTION 4. All laws and parts of laws in conflict with this act are
29 hereby repealed.

30 /s/ Hathorn, et al

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33 APPROVED: 4/15/1999