

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.  
Act 539 of the Regular Session

1 State of Arkansas  
2 87th General Assembly  
3 Regular Session, 2009

# A Bill

HOUSE BILL 1936

4  
5 By: Representatives Hyde, Hardy, W. Lewellen, Ingram, Glidewell, Hawkins  
6 By: Senators H. Wilkins, Altes, G. Baker, Horn, T. Smith

## For An Act To Be Entitled

10 AN ACT TO PROHIBIT ABUSES IN THE REPLACEMENT OF  
11 LIFE INSURANCE; AND FOR OTHER PURPOSES.

### Subtitle

14 TO PROHIBIT ABUSES IN THE REPLACEMENT OF  
15 LIFE INSURANCE.

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

20 SECTION 1. Arkansas Code § 23-66-307 is amended to read as follows:

21 23-66-307. ~~Inducement to forfeit, surrender, etc., other policies~~  
22 Actions required to replace a life insurance policy or annuity – Rules –  
23 Penalties.

24 (a) The General Assembly finds that:

25 (1) It is the public policy of this state that life and accident  
26 and health insurance ~~agents~~ producers shall provide reasonable and  
27 professional service to each insured or prospective insured;

28 (2) Each ~~agent~~ producer is ~~therefor~~ charged with the  
29 responsibility of exercising discretion and good faith in the sales  
30 presentation or transaction;

31 (3) ~~Further, it~~ It is within the general welfare of the people  
32 that each life and accident and health ~~agent~~ insurance producer, when ~~it is~~  
33 professionally advisable, shall improve upon or change the type of insurance  
34 that any insured or prospective insured presently has by providing either  
35 better coverage or an overall program of insurance more suitable for the



1 needs of the insured, his or her family, or a business; ~~and~~

2 (4) ~~However, certain abuses~~ Abuses occur when ~~agents~~ insurance  
 3 producers:

4 (A) ~~engage in the above type of solicitation without~~ Sell  
 5 or solicit unsuitable insurance products;

6 (B) Fail to provide reasonable or professional service to  
 7 an insured or a prospective insured; or

8 (C) Fail to exercise good faith and professional  
 9 discretion in an insurance sales presentation or transaction.

10 (b) If an insurance producer attempts to sell a new individual life  
 11 insurance policy or individual annuity contract or asks or urges a person to  
 12 apply for a particular kind of life insurance or annuity from a particular  
 13 company, ~~It shall be~~ it is unlawful for any agent the insurance producer to  
 14 encourage, induce, or solicit any an insured to permit a an existing policy  
 15 of permanent individual life insurance policy or an existing individual  
 16 annuity contract that has developed or may develop a cash surrender value to  
 17 lapse or to otherwise forfeit or surrender those contracts or policies except  
 18 in compliance with the provisions of subsection (c) of this section, the  
 19 existing policy or contract unless the insurance producer:

20 (c) ~~Whenever any agent in a sales presentation seeks to induce the~~  
 21 ~~holder of any permanent life insurance policy to permit it to lapse or to~~  
 22 ~~surrender, forfeit, or change the existing permanent life insurance coverage,~~  
 23 ~~the agent shall:~~

24 (1)(A) ~~Furnish~~ Furnishes the policyholder a written and dated  
 25 memorandum, dated, comparing the provisions of the existing and the proposed  
 26 life insurance coverage policy or contract with the provisions of the  
 27 proposed policy or contract.

28 (B) The ~~instrument~~ written memorandum shall be signed by  
 29 the ~~agent~~ producer and by the insured to acknowledge receipt of the written  
 30 memorandum; and

31 (2)(A) ~~File~~ Files a duplicate of the memorandum with the company  
 32 represented by the ~~agent~~ producer.

33 (B) The company and the producer shall retain the  
 34 duplicate memorandum for a ~~period of three (3)~~ five (5) years.

35 (c) The Insurance Commissioner may:

36 (1) Prescribe the form of the written memorandum required by

1 subsection (b) of this section; and

2 (2) Promulgate reasonable rules after notice and hearing to  
3 implement this section.

4 ~~(d) Any agent who shall violate the provisions~~ A violation of this  
5 section is:

6 (1) shall be guilty of a A Class A misdemeanor; and

7 (2) shall be subject to such reasonable Punishable by  
8 disciplinary action ~~as may be provided by~~ under the Arkansas Insurance Code.

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10 **APPROVED: 3/24/2009**

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