

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.

INTERIM STUDY PROPOSAL 2009-130

State of Arkansas

As Engrossed: H3/26/09 H4/3/09

87th General Assembly

A Bill

Regular Session, 2009

HOUSE BILL 2028

By: Representative Carroll

Filed with: House Interim Committee on Insurance and Commerce
pursuant to A.C.A. §10-3-217.

For An Act To Be Entitled

*AN ACT TO REGULATE THE SALE OF HOME EXTENDED
WARRANTY COVERAGE AND HOME SERVICE CONTRACTS TO
PROVIDE GREATER CONSUMER PROTECTION; AND FOR
OTHER PURPOSES.*

Subtitle

*TO REGULATE THE SALE OF HOME EXTENDED
WARRANTY COVERAGE AND HOME SERVICE
CONTRACTS TO PROVIDE GREATER CONSUMER
PROTECTION.*

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

SECTION 1. Arkansas Code § 4-114-107 is amended to read as follows:

4-114-107. Prohibited acts.

(a)(1) A provider shall not use a name:

*(A) With the words "insurance", "casualty", "surety",
"mutual", or any other words descriptive of the insurance, casualty, or
surety business; or*

*(B) Deceptively similar to the name or description of any
insurance or surety corporation or any other provider.*

*(2)(A) This subsection shall not apply to a company that was
using any of the prohibited language in its name ~~prior to~~ before October 1,
2007.*



1 (B) However, a company using the prohibited language in
2 its name shall conspicuously disclose in bold print in its service contracts
3 that the service contract is not an insurance contract.

4 (b) A provider or its representative shall not:

5 (1) ~~in~~ In its service contracts or literature make or permit or
6 cause to be made any false or misleading statement or deliberately omit any
7 material statement that would be considered misleading if omitted in
8 connection with the sale, offer to sell, or advertisement of a service
9 contract; or

10 (2)(A) Under a home service contract:

11 (i)(a) Except as provided in subdivision
12 (b)(2)(A)(i)(b) of this section, service or repair an item or product with
13 used products, used parts, or products or parts other than the original
14 manufacturer's products or parts.

15 (b) If disclosed in accordance with § 4-114-
16 106:

17 (1) New products or new parts may be
18 used if the original manufacturer's products or parts are not available; and

19 (2) Used products or used parts may be
20 used if the original manufacturer's products or parts are not available and
21 new products or new parts are not available; or

22 (ii) Replace an item or product with products or
23 parts that do not meet:

24 (a) If applicable, the United States
25 Department of Energy efficiency requirements or other minimum current energy-
26 efficiency standards for the item or product; and

27 (b) All other standards of the industry.

28 (B) If the cost to service or repair an item or product
29 under a home service contract exceeds thirty percent (30%) of the cost to
30 replace the item or product with an item or product that meets the minimum
31 energy-efficiency standards, if applicable, and other minimum industry
32 standards, a provider shall give a consumer the option of accepting the
33 equivalent value of the total cost to service and repair the item or product
34 as a credit toward the purchase of a new item or product under the home
35 service contract.

36 (c) A person, including without limitation a bank, savings and loan

1 association, lending institution, manufacturer, or seller of any product
2 shall not require the purchase of a service contract as a condition of a loan
3 or a condition for the sale of any property.

4 (d) A home service contract shall not be sold, assigned, or
5 transferred in this state unless the provider or its representative provides
6 to the consumer a:

7 (1) Written summary or link to a website containing a
8 description of the home service contract; and

9 (2) Telephone number to answer questions the consumer asks about
10 the home service contract.

11 (e) As used in this section, "home service contract" means a service
12 contract that covers the service, repair, or replacement of appliances,
13 equipment, and if applicable, other products located on the premises at the
14 time a home is purchased by a consumer.

15
16 SECTION 2. Arkansas Code § 4-114-106(g), concerning disclosures
17 required by the Service Contracts Act, is amended to add an additional
18 subdivision to read as follows:

19 (9) Conspicuously disclose in bold print in its service
20 contracts that the service contract is not an insurance contract.

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23 /s/ Carroll
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36 Filed Date: 04/09/2009 By: DLP\VJF