

State of Arkansas
86th General Assembly
Regular Session, 2007

A Bill

SENATE BILL 853

By: Senator Glover

For An Act To Be Entitled

AN ACT TO MAKE REFERRING A DEBTOR TO A COLLECTION AGENCY OR CONSUMER REPORTING AGENCY WITHOUT ADDRESS VERIFICATION AND NOTICE TO THE DEBTOR'S LAST KNOWN ADDRESS A DECEPTIVE AND UNCONSCIONABLE TRADE PRACTICE; AND FOR OTHER PURPOSES.

Subtitle

TO MAKE REFERRING A DEBTOR TO A COLLECTION AGENCY OR CONSUMER REPORTING AGENCY WITHOUT ADDRESS VERIFICATION AND NOTICE TO THE DEBTOR'S LAST KNOWN ADDRESS A DECEPTIVE AND UNCONSCIONABLE TRADE PRACTICE.

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

SECTION 1. Arkansas Code § 4-88-107 is amended to read as follows:

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

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

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

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



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

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

(5) The employment of bait-and-switch advertising consisting of an attractive but insincere offer to sell a product or service which the seller in truth does not intend or desire to sell, evidenced by:

(A) A refusal to show or a disparagement of the advertised product;

(B) The requirement of a tie-in sale or other undisclosed conditions precedent to the purchase;

(C) A demonstration of a defective product; or

(D) Other acts demonstrating an intent not to sell the advertised product or services;

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

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

(8) Knowingly taking advantage of a consumer who is reasonably unable to protect his or her interest because of:

(A) Physical infirmity;

(B) Ignorance;

(C) Illiteracy;

(D) Inability to understand the language of the agreement;

or

(E) A similar factor;

(9) The offering for sale, assembly, or drafting of any trust document, including a living trust, by a nonlawyer, excluding the marketing, assembly, and funding by bank trust departments and trust companies;

(10) Engaging in any other unconscionable, false, or deceptive act or practice in business, commerce, or trade; ~~and~~

(11)(A) Displaying or causing to be displayed a fictitious or

1 misleading name or telephone number on an Arkansas resident's telephone
2 caller identification service.

3 (B) Subdivision (a)(11)(A) of this section does not apply
4 to the transmission of a caller identification service by a
5 telecommunications provider; and

6 (12) Referring a debtor to a collection agency or consumer
7 reporting agency without:

8 (A) Verification of the debtor's last known address; and

9 (B) Mailing notice of the referral to the debtor's last
10 known address no less than twenty (20) days prior to the referral.

11 (b) The deceptive and unconscionable trade practices listed in this
12 section are in addition to and do not limit the types of unfair trade
13 practices actionable at common law or under other statutes of this state.