

Stricken language would be deleted from and underlined language would be added to present law.
Act 1360 of the Regular Session

State of Arkansas
89th General Assembly
Regular Session, 2013

As Engrossed: H3/27/13
A Bill

HOUSE BILL 2208

By: Representatives H. Wilkins, Copenhaver, Cozart

For An Act To Be Entitled

AN ACT TO REGULATE RESIDENTIAL REAL ESTATE REPAIR
PRACTICES AND CONTRACTS; AND FOR OTHER PURPOSES.

Subtitle

TO REGULATE RESIDENTIAL REAL ESTATE
REPAIR PRACTICES AND CONTRACTS.

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

SECTION 1. Arkansas Code Title 4, Chapter 88 is amended to add an additional subchapter to read as follows:

*Subchapter 9 – Unfair Practices Related to Residential Real Estate Repair
Contracts*

4-88-901. Applicability.

(a) This subchapter applies to a residential real estate repair contract under which a person has contracted with a residential contractor to provide goods or services to be paid from the proceeds of a property and casualty insurance policy.

(b) The rights and responsibilities contained in this subchapter are in addition to those under §§ 4-89-101, et seq. and 17-25-501.

4-88-902. Definitions.

As used in this subchapter:

(1)(A) “Emergency Services” means services performed with the express permission of the insured and that are immediately necessary for:



(i) The preservation of the residential real estate;
or

(ii) The health of the insured, owner, or possessor.

(B) "Emergency Services" does not include inspection of the residential real estate or an estimation of the repair costs;

(2) "Insured" means the person whose name appears on the face of the property and casualty insurance policy;

(3) "Residential real estate repair contract" means a written contract with an insured to repair residential real estate and provide goods and services to be paid under a property and casualty insurance policy;

(4) "Residential contractor" means a person or entity in the business of contracting or offering to contract with an insured, owner, or possessor of residential real estate to repair or replace roof systems or perform other exterior repair, replacement, construction, or reconstruction work on residential real estate;

(5) "Residential real estate" means a new or existing dwelling constructed for habitation by one (1) to four (4) families, including a detached garage; and

(6) "Roof system" means roof coverings, roof sheathing, roof weatherproofing, and insulation.

4-88-903. Notice of cancellation.

Before signing a residential real estate repair contract with an insured, a residential contractor shall furnish to the insured:

(1) A statement in at least ten-point boldface type, the following:

"You may cancel this residential real estate repair contract at any time within three (3) business days after you have received written notification from your insurer that all or any part of the claim or residential real estate repair contract is not a covered loss under the insurance policy. See attached notice of cancellation form for an explanation of this right."; and

(2) A fully completed form in duplicate, captioned "NOTICE OF CANCELLATION", that is attached to the residential real estate repair contract for repairs to residential real estate, that is easily detachable, and contains the following in at least ten-point boldface type:

"NOTICE OF CANCELLATION

(Enter date of transaction)

If you are notified by your insurer that all or any part of the claim or residential real estate repair contract is not a covered loss under the insurance policy, you may cancel the residential real estate repair contract by mailing or delivering a signed and dated copy of this cancellation notice or another written notice to (name of residential contractor) at (address of residential contractor's place of business) at any time within three (3) business days after you have received such notice from your insurer. If you cancel, any payments made under the residential real estate repair contract except for certain emergency work already performed by the residential contractor will be returned to you within ten (10) business days following receipt by the residential contractor of your cancellation notice.

I CANCEL THIS TRANSACTION

(DATE)

(INSURED'S SIGNATURE)."

4-88-904. Commencement of work – Cancellation.

(a) A residential contractor in a residential real estate repair contract with a insured shall not commence work until the insured's right to cancel under subsection (b) of this section has expired.

(b) A person who has entered into a residential real estate repair contract with a residential contractor may cancel the residential real estate repair contract within three (3) business days after the insured has received written notice from the insurer in response to an insurance claim filed that all or any part of the claim or residential real estate repair contract is not a covered loss under the insurance policy.

(c)(1) The insured cancels the residential real estate repair contract by giving written notice of cancellation to the residential contractor in person or by mailing it to the address stated in the residential real estate repair contract.

(2) If the notice of cancellation is given by mail, it is effective upon deposit of the notice in the United States mail, postage prepaid, and properly addressed to the residential contractor.

(3) The notice of cancellation is not required to be in a particular form and is sufficient if it expresses in writing an intention of the insured not to be bound by the residential real estate repair contract.

(d)(1) Within ten (10) days after cancellation of a residential real estate repair contract, the residential contractor shall tender to the insured any payments, partial payments, or deposits made and any note or other evidence of indebtedness.

(2) If the residential contractor has performed any emergency services, the residential contractor is entitled to the reasonable value of such emergency services.

(e) Any provision in a residential real estate repair contract that requires the payment of a fee for anything except emergency services is not enforceable against the insured that has cancelled a residential real estate repair contract under this section.

4-88-905. Violations.

(a) A violation of this subchapter by a residential contractor is an unfair and deceptive act or practice as defined by the Deceptive Trade Practice Act, § 4-88-101 et seq.

(b) This subchapter does not prohibit an insured that is harmed by a deceptive trade practice from commencing a civil action against a residential contractor.

/s/H. Wilkins

APPROVED: 04/18/2013