

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
91st General Assembly
Regular Session, 2017

As Engrossed: H3/9/17 H3/20/17
A Bill

HOUSE BILL 1742

By: Representatives Rushing, M. Gray

By: Senators Hester, Standridge

For An Act To Be Entitled

AN ACT CONCERNING A CIVIL ACTION INVOLVING A
DECEPTIVE TRADE PRACTICE; TO DEFINE THE MEASURE OF
DAMAGES IN A CASE INVOLVING A DECEPTIVE TRADE
PRACTICE; AND FOR OTHER PURPOSES.

Subtitle

CONCERNING A CIVIL ACTION INVOLVING A
DECEPTIVE TRADE PRACTICE; AND TO DEFINE
THE MEASURE OF DAMAGES IN A CASE
INVOLVING A DECEPTIVE TRADE PRACTICE.

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

SECTION 1. Arkansas Code § 4-88-101(3), concerning the applicability of the chapter governing deceptive trade practices, is amended to read as follows:

(3) Actions or transactions specifically permitted under laws administered by the Insurance Commissioner, the Securities Commissioner, the State Highway Commission, the Bank Commissioner, or other regulatory body or officer acting under statutory authority of this state or the United States, unless a director of these divisions specifically requests the Attorney General to implement the powers of this chapter; or"

SECTION 2. Arkansas Code § 4-88-102, concerning definitions applied to deceptive trade practices, is amended to add an additional subdivision to read as follows:



(9) "Actual financial loss" means an ascertainable amount of money that is equal to the difference between the amount paid by a person for goods or services and the actual market value of the goods or services provided to a person.

SECTION 3. Arkansas Code § 4-88-113(f), concerning the damages available as the result of an offense or violation of a deceptive trade practice prohibition, is amended to read as follows:

~~(f)(1)(A) Any A person who suffers ~~actual damage or injury~~ an actual financial loss as a result of ~~an offense or violation as defined in this chapter has a cause of action~~ his or her reliance on the use of a practice declared unlawful by this chapter may bring an action to recover ~~actual damages, if appropriate, and reasonable attorney's fees~~ his or her actual financial loss proximately caused by the offense or violation, as defined in this chapter.~~

~~(B) A private class action under this subsection is prohibited unless the claim is being asserted for a violation of Arkansas Constitution, Amendment 89.~~

(2) To prevail on a claim brought under this subsection, a claimant must prove individually that he or she suffered an actual financial loss proximately caused by his or her reliance on the use of a practice declared unlawful under this chapter.

(3) A court may award reasonable attorney's fees.

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

4-88-116. Right to jury trial.

Any party in an action brought under § 4-88-113(f) shall have the right to a jury trial if the action was pending or filed on or after the effective date of this act.

/s/Rushing