

State of Arkansas  
93rd General Assembly  
Regular Session, 2021

# A Bill

HOUSE BILL 1802

By: Representative Lowery

## For An Act To Be Entitled

AN ACT TO AMEND THE LAW CONCERNING UNFAIR PRACTICES RELATED TO RESIDENTIAL REAL ESTATE REPAIR CONTRACTS; TO PROHIBIT A PROMISE TO PAY OR TO REBATE AN INSURANCE POLICY DEDUCTIBLE UNDER A RESIDENTIAL REAL ESTATE REPAIR CONTRACT; AND FOR OTHER PURPOSES.

## Subtitle

TO AMEND THE LAW CONCERNING UNFAIR PRACTICES RELATED TO RESIDENTIAL REAL ESTATE REPAIR CONTRACTS; AND TO PROHIBIT A PROMISE TO PAY OR TO REBATE AN INSURANCE POLICY DEDUCTIBLE UNDER A RESIDENTIAL REAL ESTATE REPAIR CONTRACT.

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

SECTION 1. Arkansas Code § 4-88-904 is amended to read as follows:

4-88-904. Commencement of work – Cancellation – Insurance policy deductible.

(a) A residential contractor in a residential real estate repair contract with an 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.

(f)(1) A residential contractor shall not advertise or promise to pay or to rebate any or all of any portion of an insurance policy deductible as an inducement to the sale of goods or services.

(2) As used in subdivision (f)(1) of this section, a "promise to pay or to rebate" includes without limitation to:

(A) Grant an allowance or offer a discount against the fees to be charged under a real estate repair contract; or

(B) Pay the insured or any person directly or indirectly associated with the property any form of compensation, gift, prize, bonus, coupon, credit, referral fee, or other item of monetary value.

(g) A contract or estimate to provide a good or service that is reasonably expected to be paid wholly or partly from the proceeds of a claim under a property insurance policy and that has a contract price of one thousand dollars (\$1,000) or more shall contain the following notice in at

least twelve-point boldfaced type:

"State law requires a person insured under a property insurance policy to pay any deductible applicable to a claim made under the policy. It is a violation of state law for a seller of goods or services that reasonably expects to be paid wholly or partly from the proceeds of a property insurance claim to knowingly allow the insured person to fail to pay or assist the insured person's failure to pay the applicable insurance deductible."