

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.

1 State of Arkansas
2 84th General Assembly
3 Regular Session, 2003

A Bill

HOUSE BILL 2905

4
5 By: Representative Moore
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For An Act To Be Entitled

9 AN ACT TO PROVIDE RECOVERY FOR DAMAGES, COSTS,
10 AND ATTORNEY'S FEES FOR CONDUCT THAT IS AN UNFAIR
11 METHOD OF COMPETITION OR AN UNFAIR OR DECEPTIVE
12 ACT OR DECEPTIVE TRADE PRACTICE IN THE INSURANCE
13 BUSINESS; AND FOR OTHER PURPOSES.
14

Subtitle

15 AN ACT TO PROVIDE RECOVERY FOR DAMAGES,
16 COSTS, AND ATTORNEY'S FEES FOR CONDUCT
17 THAT IS AN UNFAIR METHOD OF COMPETITION
18 OR AN UNFAIR OR DECEPTIVE ACT OR
19 DECEPTIVE TRADE PRACTICE IN THE
20 INSURANCE BUSINESS.
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24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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26 SECTION 1. Arkansas Code Title 23, Chapter 66, Subchapter 6, is
27 amended to add a new subsection to read as follows:

28 23-66-609. Relief available to injured parties.

29 (a) Any person who has sustained actual damages caused by another
30 person engaging in an act or practice that is an unfair method of competition
31 or an unfair or deceptive act or practice in the business of providing
32 insurance, or a deceptive trade practice under § 23-66-206, may file an
33 action against the person engaged in the conduct complained of in any court
34 of competent jurisdiction in Arkansas.

35 (b) The court may award a plaintiff who prevails an any suit filed
36 under this section:



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1 (1)(A) Actual damages, court costs, and reasonable attorney’s
2 fees.

3 (B) If the trier of fact finds that the defendant
4 knowingly committed the acts complained of, it may award up to three (3)
5 times the amount of actual damages;

6 (2) An injunction to compel or prohibit the acts complained of;
7 and

8 (3) Any other relief the court deems proper.

9 (c) If the trier of fact finds that an action under this section is
10 groundless and was brought in bad faith or for the purpose of harassment, it
11 may award to the defendant costs and reasonable attorney’s fees.

12 (d)(1) Any action brought under this section must be filed within two
13 (2) years after the date on which the unfair method of competition, unfair or
14 deceptive act, or deceptive trade practice occurred, or within two (2) years
15 after the plaintiff discovered or, in the exercise of reasonable diligence,
16 should have discovered the occurrence.

17 (2) The two-year limitation under subdivision (d)(1) of this
18 section may be extended for up to one hundred and eighty (180) days if the
19 plaintiff proves that the failure to timely commence the action was caused by
20 the defendant engaging in conduct solely calculated to induce the plaintiff
21 to refrain from or to postpone filing the action.

22 (e)(1)(A) A plaintiff seeking damages under this section shall give
23 written notice to the defendant no less than sixty (60) days before filing
24 suit.

25 (B) Notice under subdivision (e)(1) of this section shall
26 advise the defendant of the specific conduct complained of, the amount of
27 actual damages, costs and attorney’s fees claimed.

28 (2) Notice under subdivision (e)(1) of this section is not
29 required if the statute of limitations under subdivision (d)(1) would expire
30 during that sixty (60) day time period, or if the claim is asserted as a
31 counterclaim or crossclaim.

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