1	State of Arkansas As Engrossed: H3/9/1/H3/20/1/
2	91st General Assembly A B111
3	Regular Session, 2017 HOUSE BILL 174
4	
5	By: Representatives Rushing, M. Gray
6	By: Senators Hester, Standridge
7	
8	For An Act To Be Entitled
9	AN ACT CONCERNING A CIVIL ACTION INVOLVING A
10	DECEPTIVE TRADE PRACTICE; TO DEFINE THE MEASURE OF
11	DAMAGES IN A CASE INVOLVING A DECEPTIVE TRADE
12	PRACTICE; AND FOR OTHER PURPOSES.
13	
14	
15	Subtitle
16	CONCERNING A CIVIL ACTION INVOLVING A
17	DECEPTIVE TRADE PRACTICE; AND TO DEFINE
18	THE MEASURE OF DAMAGES IN A CASE
19	INVOLVING A DECEPTIVE TRADE PRACTICE.
20	
21	
22	BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
23	
24	SECTION 1. Arkansas Code § 4-88-101(3), concerning the applicability
25	of the chapter governing deceptive trade practices, is amended to read as
26	follows:
27	(3) Actions or transactions specifically permitted under laws
28	administered by the Insurance Commissioner, the Securities Commissioner, the
29	State Highway Commission, the Bank Commissioner, or other regulatory body or
30	officer acting under statutory authority of this state or the United States,
31	unless a director of these divisions specifically requests the Attorney
32	General to implement the powers of this chapter; or"
33	
34	SECTION 2. Arkansas Code § 4-88-102, concerning definitions applied to
35	deceptive trade practices, is amended to add an additional subdivision to
36	read as follows:

1	(9) "Actual financial loss" means an ascertainable amount of
2	money that is equal to the difference between the amount paid by a person for
3	goods or services and the actual market value of the goods or services
4	provided to a person.
5	
6	SECTION 3. Arkansas Code \S 4-88-113(f), concerning the damages
7	available as the result of an offense or violation of a deceptive trade
8	practice prohibition, is amended to read as follows:
9	(f) $\underline{(1)(A)}$ Any \underline{A} person who suffers actual damage or injury an actual
10	financial loss as a result of an offense or violation as defined in this
11	chapter has a cause of action his or her reliance on the use of a practice
12	declared unlawful by this chapter may bring an action to recover actual
13	damages, if appropriate, and reasonable attorney's fees his or her actual
14	financial loss proximately caused by the offense or violation, as defined in
15	this chapter.
16	(B) A private class action under this subsection is
17	prohibited unless the claim is being asserted for a violation of Arkansas
18	Constitution, Amendment 89.
19	(2) To prevail on a claim brought under this subsection, a
20	claimant must prove individually that he or she suffered an actual financial
21	loss proximately caused by his or her reliance on the use of a practice
22	declared unlawful under this chapter.
23	(3) A court may award reasonable attorney's fees.
24	
25	SECTION 4. Arkansas Code Title 4, Chapter 88, Subchapter 1, is amended
26	to add an additional section to read as follows:
27	4-88-116. Right to jury trial.
28	Any party in an action brought under § 4-88-113(f) shall have the right
29	to a jury trial if the action was pending or filed on or after the effective
30	date of this act.
31	
32	/s/Rushing
33	
34	
35	
36	