

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019
4

A Bill

HOUSE BILL 1462

5 By: Representative Gazaway
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For An Act To Be Entitled

8 AN ACT CONCERNING DAMAGES IN A CIVIL ACTION INVOLVING
9 A DECEPTIVE TRADE PRACTICE; AND FOR OTHER PURPOSES.
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Subtitle

11 CONCERNING DAMAGES IN A CIVIL ACTION
12 INVOLVING A DECEPTIVE TRADE PRACTICE.
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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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19 SECTION 1. Arkansas Code § 4-88-101(3), concerning the applicability
20 of the chapter governing deceptive trade practices, is amended to read as
21 follows:

22 (3) Actions or transactions specifically permitted under laws
23 administered by the Insurance Commissioner, the Securities Commissioner, the
24 State Highway Commission, the Bank Commissioner, or other regulatory body or
25 officer acting under statutory authority of this state or the United States,
26 unless a director of these divisions ~~specifically~~ requests the Attorney
27 General to implement the powers of this chapter; or
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29 SECTION 2. Arkansas Code § 4-88-102(9), concerning the definition
30 "actual financial loss" as used for deceptive trade practices, is repealed.

31 ~~(9) "Actual financial loss" means an ascertainable amount of~~
32 ~~money that is equal to the difference between the amount paid by a person for~~
33 ~~goods or services and the actual market value of the goods or services~~
34 ~~provided to a person.~~
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36 SECTION 3. Arkansas Code § 4-88-113(f), concerning the damages



1 available as the result of an offense or violation of a deceptive trade
 2 practice prohibition, is amended to read as follows:

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

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

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

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

18
 19 SECTION 4. Arkansas Code § 4-88-116 is repealed.

20 ~~4-88-116. Right to jury trial.~~

21 ~~Any party in an action brought under § 4-88-113(f) shall have the right~~
 22 ~~to a jury trial if the action was pending or filed on or after August 1,~~
 23 ~~2017.~~