

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

1 State of Arkansas
2 89th General Assembly
3 Regular Session, 2013
4

As Engrossed: H3/27/13

A Bill

HOUSE BILL 2208

5 By: Representatives H. Wilkins, *Copenhaver, Cozart*
6

For An Act To Be Entitled

8 AN ACT TO REGULATE RESIDENTIAL REAL ESTATE REPAIR
9 PRACTICES AND CONTRACTS; AND FOR OTHER PURPOSES.
10

Subtitle

11 TO REGULATE RESIDENTIAL REAL ESTATE
12 REPAIR PRACTICES AND CONTRACTS.
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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
18

19 *SECTION 1. Arkansas Code Title 4, Chapter 88 is amended to add an*
20 *additional subchapter to read as follows:*
21

22 *Subchapter 9 – Unfair Practices Related to Residential Real Estate Repair*
23 *Contracts*
24

25 *4-88-901. Applicability.*

26 *(a) This subchapter applies to a residential real estate repair*
27 *contract under which a person has contracted with a residential contractor to*
28 *provide goods or services to be paid from the proceeds of a property and*
29 *casualty insurance policy.*

30 *(b) The rights and responsibilities contained in this subchapter are*
31 *in addition to those under §§ 4-89-101, et seq. and 17-25-501.*
32

33 *4-88-902. Definitions.*

34 *As used in this subchapter:*

35 *(1)(A) “Emergency Services” means services performed with the*
36 *express permission of the insured and that are immediately necessary for:*



1 (i) The preservation of the residential real estate;
2 or

3 (ii) The health of the insured, owner, or possessor.

4 (B) "Emergency Services" does not include inspection of
5 the residential real estate or an estimation of the repair costs;

6 (2) "Insured" means the person whose name appears on the face of
7 the property and casualty insurance policy;

8 (3) "Residential real estate repair contract" means a written
9 contract with an insured to repair residential real estate and provide goods
10 and services to be paid under a property and casualty insurance policy;

11 (4) "Residential contractor" means a person or entity in the
12 business of contracting or offering to contract with an insured, owner, or
13 possessor of residential real estate to repair or replace roof systems or
14 perform other exterior repair, replacement, construction, or reconstruction
15 work on residential real estate;

16 (5) "Residential real estate" means a new or existing dwelling
17 constructed for habitation by one (1) to four (4) families, including a
18 detached garage; and

19 (6) "Roof system" means roof coverings, roof sheathing, roof
20 weatherproofing, and insulation.

21
22 4-88-903. Notice of cancellation.

23 Before signing a residential real estate repair contract with an
24 insured, a residential contractor shall furnish to the insured:

25 (1) A statement in at least ten-point boldface type, the
26 following:

27 "You may cancel this residential real estate repair contract at any time
28 within three (3) business days after you have received written notification
29 from your insurer that all or any part of the claim or residential real
30 estate repair contract is not a covered loss under the insurance policy. See
31 attached notice of cancellation form for an explanation of this right."; and

32 (2) A fully completed form in duplicate, captioned "NOTICE OF
33 CANCELLATION", that is attached to the residential real estate repair
34 contract for repairs to residential real estate, that is easily detachable,
35 and contains the following in at least ten-point boldface type:

36 "NOTICE OF CANCELLATION

1 (Enter date of transaction)
 2 If you are notified by your insurer that all or any part of the claim or
 3 residential real estate repair contract is not a covered loss under the
 4 insurance policy, you may cancel the residential real estate repair contract
 5 by mailing or delivering a signed and dated copy of this cancellation notice
 6 or another written notice to (name of residential contractor) at (address of
 7 residential contractor's place of business) at any time within three (3)
 8 business days after you have received such notice from your insurer. If you
 9 cancel, any payments made under the residential real estate repair contract
 10 except for certain emergency work already performed by the residential
 11 contractor will be returned to you within ten (10) business days following
 12 receipt by the residential contractor of your cancellation notice.

13 I CANCEL THIS TRANSACTION

14
 15 _____
 16 (DATE)

17 _____
 18 (INSURED'S SIGNATURE)."

19
 20 4-88-904. Commencement of work – Cancellation.

21 (a) A residential contractor in a residential real estate repair
 22 contract with a insured shall not commence work until the insured's right to
 23 cancel under subsection (b) of this section has expired.

24 (b) A person who has entered into a residential real estate repair
 25 contract with a residential contractor may cancel the residential real estate
 26 repair contract within three (3) business days after the insured has received
 27 written notice from the insurer in response to an insurance claim filed that
 28 all or any part of the claim or residential real estate repair contract is
 29 not a covered loss under the insurance policy.

30 (c)(1) The insured cancels the residential real estate repair contract
 31 by giving written notice of cancellation to the residential contractor in
 32 person or by mailing it to the address stated in the residential real estate
 33 repair contract.

34 (2) If the notice of cancellation is given by mail, it is
 35 effective upon deposit of the notice in the United States mail, postage
 36 prepaid, and properly addressed to the residential contractor.

1 (3) The notice of cancellation is not required to be in a
2 particular form and is sufficient if it expresses in writing an intention of
3 the insured not to be bound by the residential real estate repair contract.

4 (d)(1) Within ten (10) days after cancellation of a residential real
5 estate repair contract, the residential contractor shall tender to the
6 insured any payments, partial payments, or deposits made and any note or
7 other evidence of indebtedness.

8 (2) If the residential contractor has performed any emergency
9 services, the residential contractor is entitled to the reasonable value of
10 such emergency services.

11 (e) Any provision in a residential real estate repair contract that
12 requires the payment of a fee for anything except emergency services is not
13 enforceable against the insured that has cancelled a residential real estate
14 repair contract under this section.

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16 4-88-905. Violations.

17 (a) A violation of this subchapter by a residential contractor is an
18 unfair and deceptive act or practice as defined by the Deceptive Trade
19 Practice Act, § 4-88-101 et seq.

20 (b) This subchapter does not prohibit an insured that is harmed by a
21 deceptive trade practice from commencing a civil action against a residential
22 contractor.

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24 /s/H. Wilkins
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