

ASSEMBLY, No. 3333

STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED OCTOBER 7, 2010

Sponsored by:

Assemblyman JOHN F. MCKEON

District 27 (Essex)

Assemblyman RALPH R. CAPUTO

District 28 (Essex)

Assemblyman DOMENICK DICICCO, JR.

District 4 (Camden and Gloucester)

Co-Sponsored by:

Assemblywomen Handlin, Evans, McHose, Voss and Assemblyman Chiusano

SYNOPSIS

Revises individual cause of action under consumer fraud act and makes certain other revisions regarding applicability of act.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/14/2011)

A3333 MCKEON, CAPUTO

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1 AN ACT concerning actions for consumer fraud, amending
2 P.L.1971, c.247 and supplementing P.L.1960, c.39 (C.56:8-1 et
3 seq.).

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5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

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8 1. Section 7 of P.L.1971, c.247 (C.56:8-19) is amended to read
9 as follows:

10 7. a. Any [person] consumer who suffers any ascertainable loss
11 of moneys or property, real or personal, [as a result of] because he
12 relied to his detriment on the use or employment by another person
13 of any method, act, or practice declared unlawful under this act or
14 the act hereby amended and supplemented may bring an action or
15 assert a counterclaim therefor in any court of competent
16 jurisdiction. In any action under this section the court [shall] may,
17 in addition to any other appropriate legal or equitable relief, award
18 up to threefold the actual damages sustained by [any person in
19 interest] the consumer. In all actions under this section, including
20 those brought by the Attorney General, the court shall also award
21 reasonable attorneys' fees, filing fees and reasonable costs of suit.
22 Attorneys' fees awarded under this section shall be limited to
23 attorneys' fees and costs reasonably attributable to the prosecution
24 of the claim brought under P.L.1960, c.39 (C.56:8-1 et seq.) that
25 results in the judgment and shall not exceed the greater of \$150,000
26 or one-third of that judgment.

27 b. As used in this section, "consumer" means an individual and
28 shall not include a business.
29 (cf: P.L.1997, c.359, s.1)

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31 2. (New section) The provisions of P.L.1960, c.39 (C.56:8-1 et
32 seq.) shall:

33 a. apply only to transactions that take place in the State; and
34 b. not apply to actions or transactions otherwise permitted or
35 regulated by the Federal Trade Commission or any other regulatory
36 body or officer acting under statutory authority of this State or the
37 United States.

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39 3. This act shall take effect immediately and shall apply to
40 actions filed on or after the effective date.

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

STATEMENT

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This bill makes various revisions to the New Jersey consumer fraud act.

The bill provides that the individual cause of action provided for under the consumer fraud act is available only to a “consumer,” who is defined as an individual and specifically excludes businesses.

The bill provides that the plaintiff, in order to succeed in a consumer fraud action, must have relied to his detriment on the use or employment of the unlawful method, act or practice.

Under current law, when a violation of the consumer fraud act is found to have occurred, the court is required to award threefold the damages sustained by any person in interest and attorneys’ fees. This bill gives the court discretion in awarding damages, which would not be permitted to exceed threefold the actual damages sustained by the consumer. Under the bill, when the court finds that a violation of the consumer fraud act has occurred the court is still required to award attorneys fees and costs, but only for those costs reasonably attributable to the prosecution of the claim brought under the consumer fraud act that results in the judgment. The bill further limits the award of attorney’s fees and costs to the greater of \$150,000 or one-third of the judgment.

In addition, the bill provides that the consumer fraud act applies only to transactions that take place within the State. The bill also provides that the consumer fraud act would not apply to actions or transactions otherwise permitted or regulated by the Federal Trade Commission or any other regulatory body or officer acting under statutory authority of this State or the United States.