

HOUSE RESEARCH

Bill Summary

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Authors: Wardlow and others

Subject: Unlawful or deceptive trade practices; class action suits

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Overview

This bill specifies standards for damage awards resulting from violations of a number of consumer protection laws, and enacts a statutory right of appeal of orders related to certification of a class in class action suits.

Section

- 1** **Private remedies.** Enacts a cross-reference to conform to a new subdivision enacted in section 2 of the bill.
- 2** **Private remedies; unlawful trade practices, consumer fraud, and false advertising.** Requires proof of detrimental reliance on an alleged deceptive, false, or misleading act, practice, statement, or omission before damages may be recovered for violation of certain consumer fraud, deceptive trade practice, or false advertising laws.

In this context, detrimental reliance will typically require a consumer to have made a purchase after a misrepresentation or some other wrongful act by the seller motivated the consumer to do so. The bill requires that the detrimental reliance include an out-of-pocket loss before damages may be awarded.

This section would apply to actions accruing the day following final enactment of the bill or later.

- 3** **Class action certification; interlocutory appeals.** Permits a court's order related to certification of a class in a class action suit to be appealed before the case moves forward. Existing court rules permit appeal of class certification orders upon application of a party in the case, but the Court of Appeals is not required to hear the appeal.

If an order related to class certification is appealed, proceedings on that suit in district court, including discovery, are automatically stayed while the appeal is pending. A party may file a motion to have the stay fully or partially lifted for good cause. Current court rule provides discretionary authority for the court of appeals or district court to issue a stay.

This section would apply to court orders related to class certification issued on or after July 1, 2011.