

House Amendment 1145

PAG LIN

1 1 Amend House File 712 as follows:
1 2 [#1.](#) Page 1, by striking line 3 and inserting the
1 3 following: <"Private Right of Action for Consumer
1 4 Frauds Act".>
1 5 [#2.](#) Page 1, by striking lines 12 and 13 and
1 6 inserting the following:
1 7 <4. "Deception" means an act or practice that is
1 8 likely to mislead a substantial number of consumers as
1 9 to a material fact or facts.>
1 10 [#3.](#) Page 1, line 17, by inserting after the word
1 11 <following> the following: <persons, including
1 12 business entities organized under Title XII by those
1 13 persons and the officers, directors, employees, and
1 14 agents of those persons or business entities,>.
1 15 [#4.](#) Page 1, by striking lines 21 and 22 and
1 16 inserting the following:
1 17 <c. Financial institutions which includes any bank
1 18 incorporated under the provisions of any state or
1 19 federal law, any savings and loan association or
1 20 savings bank incorporated under the provisions of any
1 21 state or federal law, any credit union organized under
1 22 the provisions of any state or federal law, any
1 23 affiliate or subsidiary of a bank, savings and loan
1 24 association, savings bank, or credit union, and
1 25 industrial loan licensees pursuant to chapter 536A and
1 26 regulated loan licensees pursuant to chapter 536.>
1 27 [#5.](#) Page 1, by striking lines 23 through 25.
1 28 [#6.](#) Page 1, by striking line 29 and inserting the
1 29 following: <155A, 156, 169, 522B, 542, 542B, 543B,
1 30 544A, or 544B.>
1 31 [#7.](#) Page 2, line 2, by inserting after the word
1 32 <in> the following: <a practice the person knows or
1 33 reasonably should know is>.
1 34 [#8.](#) Page 2, line 3, by inserting after the word
1 35 <or> the following: <the>.
1 36 [#9.](#) Page 2, line 4, by striking the words <or
1 37 the>.
1 38 [#10.](#) Page 2, by striking line 6 and inserting the
1 39 following: <upon the unfair practice, deception,
1 40 fraud, false pretense, false promise,
1 41 misrepresentation, concealment, suppression, or
1 42 omission in connection>.
1 43 [#11.](#) Page 2, line 9, by inserting after the word
1 44 <purposes.> the following: <For the purposes of this
1 45 chapter, a claimant alleging fraud, false promise,
1 46 false pretense, or misrepresentation must prove that
1 47 the prohibited practice related to a material fact or
1 48 facts. "Solicitation of contributions for charitable
1 49 purposes" does not include solicitations made on
1 50 behalf of a political organization as defined in
2 1 section 13C.1, solicitations made on behalf of a
2 2 religious organization as defined in section 13C.1,
2 3 solicitations made on behalf of a state, regionally,
2 4 or nationally accredited college or university, or
2 5 solicitations made on behalf of a nonprofit foundation
2 6 benefiting a state, regionally, or nationally
2 7 accredited college or university subject to section
2 8 509(a)(1) or 509(a)(3) of the Internal Revenue Code of
2 9 1986.>
2 10 [#12.](#) Page 2, by striking lines 31 through 35 and
2 11 inserting the following: <disseminates the
2 12 advertisement.>
2 13 [#13.](#) Page 3, by inserting after line 2 the
2 14 following:
2 15 <____. Public utilities as defined in section 476.1
2 16 that furnish gas by a piped distribution system or
2 17 electricity to the public for compensation.
2 18 _____. The provision of cable television service or
2 19 video service pursuant to a franchise under section
2 20 364.2 or 477A.2.
2 21 _____. The provision of local exchange carrier
2 22 telephone service pursuant to a certificate issued
2 23 under section 476.29.
2 24 _____. Conduct for which a cause of action is

2 25 available to the consumer based upon negligence,
2 26 product liability, or warranty.
2 27 _____. Actions alleging bodily injury.
2 28 _____. Conduct in compliance with the orders or
2 29 rules of, or a statute administered by, a federal,
2 30 state, or local governmental agency.
2 31 _____. An affirmative act that violates this chapter
2 32 but is specifically required by other applicable law,
2 33 to the extent that the action could not reasonably
2 34 avoid a violation of this chapter.
2 35 _____. In any action relating to a charitable
2 36 solicitation, an individual who has engaged in the
2 37 charitable solicitation as an unpaid, uncompensated
2 38 volunteer solicitor and who does not receive monetary
2 39 gain of any sort from engaging in the solicitation.>
2 40 #14. Page 3, by striking lines 20 through 22 and
2 41 inserting the following:
2 42 <l. A consumer who reasonably relies on a practice
2 43 prohibited by this chapter and who suffers an
2 44 ascertainable loss of money or property as the result
2 45 of such prohibited practice may bring an action at law
2 46 to recover actual economic damages. An award of
2 47 damages for such a prohibited practice shall not be
2 48 made without proof that the consumer suffered actual
2 49 economic damages. The>.
2 50 #15. Page 3, line 27, by inserting after the word
3 1 <chapter> the following: <and the consumer is awarded
3 2 actual damages>.
3 3 #16. Page 4, line 17, by inserting after the word
3 4 <finds> the following: <by a preponderance of clear,
3 5 convincing, and satisfactory evidence>.
3 6 #17. Page 4, line 18, by inserting after the word
3 7 <willful> the following: <and wanton>.
3 8 #18. Page 4, line 24, by striking the word <five>
3 9 and inserting the following: <two>.
3 10 #19. Page 4, line 25, by striking the word <five>
3 11 and inserting the following: <two>.
3 12 #20. Page 5, by inserting after line 33 the
3 13 following:
3 14 <Sec. _____. NEW SECTION. 714H.7 CLASS ACTIONS
3 15 BARRED.
3 16 A class action lawsuit alleging violations of this
3 17 chapter shall not be available.>
3 18 #21. By renumbering as necessary.
3 19
3 20
3 21
3 22 _____
3 23 STRUYK of Pottawattamie
3 24 HF 712.501 83
3 24 rh/rj/22550