

HOUSE RESEARCH

Bill Summary

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Overview

This bill establishes that a private action alleging a violation of Minnesota's Consumer Fraud Act is in the public interest and benefits the public.

The consumer fraud act covers a variety of fraudulent practices and conduct, including pyramid schemes and certain types of going-out-of-business sales. It also contains a more general provision that prohibits fraud, misrepresentation, and deceptive practices connected with the sale of merchandise. A separate section of Minnesota law permits private individuals to file suits to enforce the law, acting as "private attorneys general."

In 2000, the Minnesota Supreme Court held that a private action brought by an individual under this section is only permitted where there is a "public benefit" inherent in the action, because the attorney general is only permitted to bring suits that are in the public interest. Resulting cases applying this standard have most often held that, unless the suit is a class action or other special circumstances exist, an action brought by an individual alleging a violation of the Consumer Fraud Act does not benefit the public. As a result, most suits brought by individuals under this section of law fail or are dismissed outright, before the court considers the substantive merits of the claim.

The addition of the language contained in this bill would establish that a suit by a private citizen alleging a violation of a consumer fraud provision does contain a public benefit. To establish liability, however, a plaintiff would still be required to prove the merits of their case.

Section

- 1** **Private remedies.** Provides, by cross-reference, that certain remedies available to the attorney general may also be pursued in an action under the private attorney general statute. These remedies include the right to seek injunctive relief.
- 2** **Fraud, misrepresentation, deceptive practices.** Adds unfair, illegally discriminatory, or unlawful practices in connection with the sale of merchandise to the scope of the state's existing Consumer Fraud Act.
- 3** **Private action.** Provides that any private action alleging a violation of the Consumer Fraud Act is in the public interest and benefits the public. This section effectively eliminates the "public benefit" test, described in the overview, for purposes of the Consumer Fraud Act.