

By: Williams

S.B. No. 1397

A BILL TO BE ENTITLED

AN ACT

relating to damages available to a consumer under the Deceptive Trade Practices-Consumer Protection Act.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 17.50, Business & Commerce Code, is amended by adding Subsection (a-1) and amending Subsection (b) to read as follows:

(a-1) A consumer seeking to recover damages under this section in an individual action, class action, or other type of action shall prove on an individual basis that the deceptive act or practice for which damages are sought caused the consumer to enter into a transaction that resulted in the damages.

(b) In a suit filed under this section, each consumer who prevails may obtain:

(1) the amount of economic damages found by the trier of fact, limited to an amount equal to the difference between the amount paid by the consumer for the good or service and the actual market value of the good or service that the consumer received. The consumer has the burden of proving this amount of economic damages.

If the trier of fact finds that the conduct of the defendant was committed knowingly, the consumer may also recover damages for mental anguish, as found by the trier of fact, and the trier of fact may award not more than three times the amount of economic damages; or if the trier of fact finds the conduct was committed

1 intentionally, the consumer may recover damages for mental anguish,
2 as found by the trier of fact, and the trier of fact may award not
3 more than three times the amount of damages for mental anguish and
4 economic damages;

5 (2) an order enjoining such acts or failure to act;

6 (3) orders necessary to restore to any party to the
7 suit any money or property, real or personal, which may have been
8 acquired in violation of this subchapter; and

9 (4) any other relief which the court deems proper,
10 including the appointment of a receiver or the revocation of a
11 license or certificate authorizing a person to engage in business
12 in this state if the judgment has not been satisfied within three
13 months of the date of the final judgment. The court may not revoke
14 or suspend a license to do business in this state or appoint a
15 receiver to take over the affairs of a person who has failed to
16 satisfy a judgment if the person is a licensee of or regulated by a
17 state agency which has statutory authority to revoke or suspend a
18 license or to appoint a receiver or trustee. Costs and fees of such
19 receivership or other relief shall be assessed against the
20 defendant.

21 SECTION 2. The changes in law made by this Act apply only to
22 a cause of action filed on or after the effective date of this Act.
23 A cause of action filed before the effective date of this Act is
24 governed by the law in effect on the date the cause of action was
25 filed, and the former law is continued in effect for that purpose.

26 SECTION 3. This Act takes effect September 1, 2007.