

House Bill 183

By: Representatives Lim of the 99<sup>th</sup>, Mainor of the 56<sup>th</sup>, and Thomas of the 65<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Part 2 of Article 15 of Chapter 1 of Title 10 of the Official Code of Georgia  
2 Annotated, relating to the "Fair Businesses Practices Act," so as to allow actions for  
3 violations to be brought in a representative capacity; to provide for related matters; to provide  
4 for an effective date and applicability; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 style="text-align:center">**SECTION 1.**

7 Part 2 of Article 15 of Chapter 1 of Title 10 of the Official Code of Georgia Annotated,  
8 relating to the "Fair Businesses Practices Act," is amended by revising subsection (c) of Code  
9 Section 10-1-393.13, relating to oversight by Attorney General of certain telemarketing  
10 practices, definitions, conduct by telephone solicitors, and class actions, as follows:

11 "(c) ~~Notwithstanding Code Section 10-1-399, a~~ A claim of a violation of this Code section  
12 may be brought in a representative capacity and may be the subject of a class action under  
13 Code Section 9-11-23. Damages for such violation shall be the greater of actual damages  
14 or \$10.00 per violation."

15 **SECTION 2.**

16 Said part is further amended by revising subsection (a) of Code Section 10-1-399, relating  
17 to civil or equitable remedies by individuals, as follows:

18 "(a) Any person who suffers injury or damages as a result of a violation of Chapter 5B of  
19 this title, as a result of consumer acts or practices in violation of this part, as a result of  
20 office supply transactions in violation of this part or whose business or property has been  
21 injured or damaged as a result of such violations may bring an action individually, ~~but not~~  
22 ~~in a representative capacity~~, against the person or persons engaged in such violations under  
23 the rules of civil procedure to seek equitable injunctive relief and to recover his or her  
24 general and exemplary damages sustained as a consequence thereof in any court having  
25 jurisdiction over the defendant; provided, however, that exemplary damages shall be  
26 awarded only in cases of intentional violation. Notwithstanding any other provisions of  
27 law, a debtor seeking equitable relief to redress an injury resulting from a violation of  
28 paragraph (20) of subsection (b) of Code Section 10-1-393, upon facts alleged showing a  
29 likelihood of success on the merits, may not, within the discretion of the court, be required  
30 to make a tender. Nothing in this subsection or paragraph (20) of subsection (b) of Code  
31 Section 10-1-393 shall be construed to interfere with the obligation of the debtor to a lender  
32 who is not in violation of paragraph (20) of subsection (b) of Code Section 10-1-393. A  
33 claim under this Code section may also be asserted as a defense, setoff, cross-claim, or  
34 counterclaim or third-party claim against such person."

35 **SECTION 3.**

36 This Act shall become effective upon its approval by the Governor or upon its becoming law  
37 without such approval and shall apply to all violations occurring on or after such date.

38 **SECTION 4.**

39 All laws and parts of laws in conflict with this Act are repealed.