

§213. Private remedies

1. Court action. Any person who purchases or leases goods, services or property, real or personal, primarily for personal, family or household purposes and thereby suffers any loss of money or property, real or personal, as a result of the use or employment by another person of a method, act or practice declared unlawful by section 207 or by any rule or regulation issued under section 207, subsection 2 may bring an action either in the Superior Court or District Court for actual damages, restitution and for such other equitable relief, including an injunction, as the court determines to be necessary and proper. There is a right to trial by jury in any action brought in Superior Court under this section. [PL 1991, c. 536, §1 (AMD).]

1-A. Settlement offer. At least 30 days prior to the filing of an action for damages, a written demand for relief, identifying the claimant and reasonably describing the unfair and deceptive act or practice relied upon and the injuries suffered, must be mailed or delivered to any prospective respondent at the respondent's last known address. A person receiving a demand for relief, or otherwise a party to any litigation arising from the claim that is the subject of the court action, may make a written tender of settlement or, if a court action has been filed, an offer of judgment. If the judgment obtained in court by a claimant is not more favorable than any rejected tender of settlement or offer of judgment, the claimant may not recover attorney's fees or costs incurred after the more favorable tender of settlement or offer of judgment.

The demand requirement of this subsection does not apply if the claim is asserted by way of counterclaim or cross claim.

[PL 1991, c. 536, §2 (NEW); PL 1991, c. 536, §3 (AFF).]

2. Fees and costs. If the court finds, in any action commenced under this section that there has been a violation of section 207, the petitioner shall, in addition to other relief provided for by this section and irrespective of the amount in controversy, be awarded reasonable attorney's fees and costs incurred in connection with said action.

[PL 1973, c. 251 (NEW).]

3. Notices to Attorney General. Upon commencement of any action brought under subsection 1, the clerk of courts shall mail a copy of the complaint or other initial pleading to the Attorney General and upon entry of any judgment or decree in the action, shall mail a copy of such judgment or decree to the Attorney General.

[PL 1973, c. 251 (NEW).]

4. Injunction as evidence. Any permanent injunction or order of the court issued under section 209 shall be prima facie evidence in an action brought under subsection 1 that the respondent used or employed an unfair or deceptive method, act or practice declared unlawful under section 207.

[PL 1973, c. 251 (NEW).]

SECTION HISTORY

PL 1973, c. 251 (NEW). PL 1973, c. 788, §13 (AMD). PL 1979, c. 451 (AMD). PL 1983, c. 29, §2 (AMD). PL 1991, c. 536, §§1,2 (AMD). PL 1991, c. 536, §3 (AFF).

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