

CONSUMER ADVISORY

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By Attorney General Tom Miller

Consumer “Private Right of Action” -- What Consumers Need to Know Consumer protection law effective July 1, 2009.

Iowans have finally joined people in the other 49 states in having a private remedy for consumer fraud. The “Private Right of Action” law, which took effect July 1, 2009, is a very important tool for consumers who have been cheated by consumer fraud or deception.

The law makes it possible for consumers to get damages and attorney fees if they prevail in a consumer fraud lawsuit. In the past, even if they were cheated badly and went to court and won, consumers couldn't obtain attorney fees to pay for the cost of the action.

What consumers should know about the Private Right of Action:

- Consumers can sue businesses that engage in deceptive practices, unfair practices, or misrepresentation, or that fail to disclose material facts.
- The law covers areas with the most need for private remedies, including new and used car sales and service; home improvements; door-to-door sales; charitable solicitations; cell phone and satellite television sales and service; sweepstakes and telemarketing fraud; and many others. The law covers the sale, lease or advertisement of consumer merchandise, and solicitation of charitable contributions.
- Consumers will be able to sue to recover actual damages, but will not be able to recover claims for bodily injury or pain and suffering. Consumers will also be able to seek punitive damages of up to three times actual damages in cases of willful and wanton conduct by the defendant. If the consumer wins the lawsuit, the court must award reasonable attorney fees to the consumer's attorney.
- The law does not cover several types of businesses, including complaints about insurance agents or companies. (Consumers with insurance complaints should contact the Iowa Insurance Division – 877-955-1212, or www.iid.state.ia.us.)
- Most consumers should start by trying to resolve their complaints directly with the company. And consumers still may wish to file written consumer complaints with the Attorney General's Consumer Protection Division. Many companies may choose to resolve complaints informally, short of being sued.

For more information, or if you want to file a consumer complaint, go to www.IowaAttorneyGeneral.gov. Or, write to the AG's General's Consumer Protection Div., Hoover Bldg., Des Moines, Iowa 50319. Call 515-281-5926, or 888-777-4590 toll-free.