

Effective 5/7/2025

13-11-19 Actions by consumer.

- (1) Whether a consumer seeks or is entitled to damages or otherwise has an adequate remedy at law, the consumer may bring an action to:
 - (a) obtain a declaratory judgment that an act or practice violates this chapter; and
 - (b) enjoin, in accordance with the principles of equity, a supplier that has violated, is violating, or is likely to violate this chapter.
- (2) A consumer who suffers loss as a result of a violation of this chapter may recover actual damages plus court costs, but not in a class action except as provided in this section.
- (3) Whether a consumer seeks or is entitled to recover damages or has an adequate remedy at law, the consumer may bring a class action for declaratory judgment, an injunction, and appropriate ancillary relief against an act or practice that violates this chapter.
- (4)
 - (a) A consumer who suffers loss as a result of a violation of this chapter may bring a class action for the actual damages caused by an act or practice specified as violating this chapter by a rule adopted by the division under Section 13-11-9 before the consumer transactions on which the action is based, or declared to violate Section 13-11-4 or 13-11-5 by a final judgment of the appropriate court or courts of general jurisdiction and appellate courts of this state that was either officially reported or made available for public dissemination under Subsection 13-11-7(1)(c) by the division 10 days before the consumer transactions on which the action is based, or with respect to a supplier who agreed to a consent judgment, was prohibited specifically by the terms of a consent judgment that became final before the consumer transactions on which the action is based.
 - (b) If an act or practice that violates this chapter unjustly enriches a supplier and the damages can be computed with reasonable certainty, damages recoverable on behalf of consumers who cannot be located with due diligence shall be transferred to the state treasurer in accordance with Title 67, Chapter 4a, Revised Uniform Unclaimed Property Act.
 - (c) If a supplier shows by a preponderance of the evidence that a violation of this chapter resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid the error, recovery under this section is limited to the amount, if any, in which the supplier was unjustly enriched by the violation.
- (5) Except for services performed by the division, the court may award to the prevailing party a reasonable attorney's fee limited to the work reasonably performed if:
 - (a) the consumer complaining of the act or practice that violates this chapter has brought or maintained an action the consumer knew to be groundless; or a supplier has committed an act or practice that violates this chapter; and
 - (b) an action under this section has been terminated by a judgment or required by the court to be settled under Subsection 13-11-21(1)(a).
- (6) Except for consent judgment entered before testimony is taken, a final judgment in favor of the division under Section 13-11-17 is admissible as prima facie evidence of the facts on which an action is based in later proceedings under this section against the same person or a person in privity with the person against which the judgment is entered.
- (7) When a judgment under this section becomes final, the prevailing party shall mail a copy to the division for inclusion in the public file maintained under Subsection 13-11-7(1)(e).

Amended by Chapter 442, 2025 General Session