

ACT 79

S.B. NO. 483

A Bill for an Act Relating to Restraint of Trade.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 480-13, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Except as provided in subsections (b) and (c), any person who is injured in the person’s business or property by reason of anything forbidden or declared unlawful by this chapter:

- (1) May sue for damages sustained by the person, and, if the judgment is for the plaintiff, the plaintiff shall be awarded a sum not less than \$1,000 or threefold damages by the plaintiff sustained, whichever sum is the greater, and reasonable attorneys fees together with the costs of suit; provided that indirect purchasers injured by an illegal overcharge shall recover only compensatory damages, and reasonable attorneys fees together with the costs of suit[; ~~and~~] in actions not brought under section 480-14(c); and
- (2) May bring proceedings to enjoin the unlawful practices, and if the decree is for the plaintiff, the plaintiff shall be awarded reasonable attorneys fees together with the cost of suit.”

SECTION 2. Section 480-14, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) No person other than the attorney general of the State shall be authorized to bring a class action for indirect purchasers asserting claims under this

chapter. The attorney general or the director of the office of consumer protection may bring a class action on behalf of consumers based on unfair or deceptive acts or practices declared unlawful by section 480-2. Actions brought under this section shall be brought as *parens patriae* on behalf of natural persons residing in the State, to secure threefold compensatory damages for injuries sustained by such natural persons to their property by reason of any violation of this chapter.”

SECTION 3. Section 480-22, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) A final judgment or decree rendered in any civil or criminal proceeding brought by the State under this chapter shall be prima facie evidence against the defendant in any action or proceeding brought by any other party under this chapter, or by the State, county, or city and county, under section 480-14, against the defendant as to all matters respecting which the judgment or decree would be an estoppel between the parties thereto. This section shall not apply to consent judgments or decrees entered before any complaint has been filed; provided that when a consent judgment or decree is filed, the attorney general shall set forth at the same time the alleged violations and reasons for entering into the consent judgment or decree. No ~~[such]~~ consent judgment or decree that is entered before any complaint has been filed shall become final until sixty days from the filing of the consent judgment or decree or until the final determination of any exceptions filed, as hereinafter provided, whichever is later. During the sixty-day period any interested party covered under section 480-13 may file verified exceptions to the form and substance of the consent judgment or decree, and the court, upon a full hearing thereon may approve, refuse to ~~[enter,]~~ approve, or may modify the consent judgment or decree.”

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved May 2, 2001.)