WEST VIRGINIA CODE: §46A-6-106

§46A-6-106. Private causes of action.

(a) Subject to subsection (b) of this section, any person who purchases or leases goods or services and thereby suffers an ascertainable 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 prohibited or declared to be unlawful by the provisions of this article may bring an action in the circuit court of the county in which the seller or lessor resides or has his or her principal place of business or is doing business, or as provided for in §46A-1-1 and §46A-1-2 of this code, to recover actual damages or $200, whichever is greater. The court may, in its discretion, provide such equitable relief it considers necessary or proper. Any party to an action for damages under this subsection has the right to demand a jury trial.

(b) An award of damages in an action pursuant to subsection (a) of this section may not be made without proof that the person seeking damages suffered an actual out-of-pocket loss that was proximately caused by a violation of this article. If a person seeking to recover damages for a violation of this article alleges that an affirmative misrepresentation is the basis for his or her claim then he or she must prove that the deceptive act or practice caused him or her to enter into the transaction that resulted in his or her damages. If a person seeking to recover damages for a violation of this article alleges that the concealment or omission of information is the basis for his or her claim, then he or she must prove that the person’s loss was proximately caused by the concealment or omission.

(c) Any permanent injunction, judgment, or order of the court under §46A-7-108 of this code for a violation of §46A-6-104 of this code is prima facie evidence in an action brought pursuant to the provisions of this section that the respondent used or employed a method, act, or practice declared unlawful by §46A-6-104 of this code.

WV Legislature