

HOUSE No. 1283

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act relative to consumer protection..

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. The General Court finds that:

2 (1) Current Massachusetts statutory law provides that plaintiffs in consumer protection
3 actions must have been “injured by” a method, act or practice that is unlawful under Section 2 of
4 Chapter 93A or any rule or regulation issued thereunder, thus imposing a causation requirement
5 in these actions;

6 (2) Despite this requirement, decisions of the courts of the Commonwealth indicate that
7 the courts may have misinterpreted the General Court’s intention to require plaintiffs to prove
8 causation in consumer protection actions; and

9 (3) It is necessary for the General Court to clarify the causation requirement in consumer
10 protection actions, in order to more adequately express the original legislative intent behind the
11 consumer protection laws.

12 SECTION 2. Section 9 of Chapter 93A of the General Laws, as appearing in the 2006
13 Official Edition, is hereby amended by striking all of current paragraph (2) after the words

“similarly situated” in the first sentence and inserting following the words “similarly situated” the following: “, bring such action as a class action if the requirements of Massachusetts Civil Procedure Rule 23 are satisfied.”

SECTION 3. Said section 9 of Chapter 93A, as so appearing, is hereby further amended by striking the word “shall” in the fifth sentence, which begins “In addition, the court”, and inserting in place thereof the word “may.”

SECTION 4. Said section 9 of Chapter 93A, as so appearing, is hereby further amended by adding the following paragraph:

(4) Each person seeking to recover under this section shall be required to prove that his or her injury and damages were proximately caused by a method, act or practice declared to be unlawful by section two or any rule or regulation issued thereunder. Proof of the existence of an unlawful method, act or practice shall not support an award of damages or other relief without proof that the person seeking recovery suffered an actual injury and that such injury was proximately caused by the unlawful method, act or practice.

SECTION 6. Said section 9 of Chapter 93A, as so appearing, is hereby further amended by renumbering current paragraph (4) as new paragraph (5).

SECTION 7. This Act is intended to clarify existing Massachusetts law and thus shall take effect immediately upon passage and shall apply to all actions commenced or pending on or after the effective date of this section.