JAN 19 2007

A BILL FOR AN ACT

RELATING TO CONSUMER ACTIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The Hawaii Revised Statutes is amended by 2 adding a new chapter to be appropriately designated and to read 3 as follows: 4 "CHAPTER CONSUMER RIGHT OF ACTION 5 6 -1 Right of the consumer. The legislature shall not 7 enact any law whose primary impact is an economic impact on the consumer, unless the impact is beneficial to the consumer. 8 9 -2 Enforcement. Upon the effective date of this Act, 10 any consumer in this State may bring an action for declaratory 11 relief in the circuit court of the circuit in which the consumer

resides on the ground that the law complained of violates the

13 right of the consumer as set forth in section -1. The

14 circuit court, in its discretion, may permit the joinder of

15 other consumers or the consolidation of suits filed

16 simultaneously on the same grounds.

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- 1 § -3 Limitation on number of actions. The court shall
- 2 consolidate all actions challenging a single law brought under
- 3 this chapter.
- 4 § -4 Vigorous prosecution. Any consumer who brings or
- 5 joins a lawsuit under this chapter shall prosecute the action
- 6 diligently. Failure to do so will permit the court, in its
- 7 discretion, to dismiss the plaintiff from the lawsuit.
- 9 action under this chapter shall be entitled to reasonable
- 10 attorneys' fees and costs.
- 11 § -6 Review of the law. In reviewing a law challenged
- 12 under this chapter, the court shall first determine if the
- 13 primary intent of the law is an economic impact on the consumers
- 14 in the State. If the court determines that the primary intent
- 15 of the law is an economic impact on the consumers, the court
- 16 shall next determine whether the impact is positive or negative.
- 17 If the court finds that different classes of consumers would be
- 18 subject to different impacts, the court shall determine whether,
- 19 as to the majority of the whole class, the law has a positive or
- 20 negative impact.
- 21 § -7 Effect of judgment. Upon a finding that the law
- 22 violates the right set forth in section -1, the court shall

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- 1 enter a declaratory judgment voiding the parts of the law that
- 2 have a negative impact. If the court finds that it cannot void
- 3 the parts of the law without substantially changing the intent
- 4 of the law, the court shall void the entire law. Any portion of
- 5 the law so voided shall be deemed void from the effective date
- 6 of that law."
- 7 SECTION 2. This Act, upon its approval, shall take effect
- 8 upon ratification of a constitutional amendment prohibiting the
- 9 legislature from enacting any law whose primary impact is a

10 negative economic impact on consumers in the State.

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INTRODUCED BY:

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Report Title:

Consumer Actions

Description:

If a constitutional amendment authorizes it, the Act establishes a right of a consumer to bring an action for declaratory relief for any law enacted by the Legislature that has primarily a negative economic impact on the consumer.