

# VIRGINIA ACTS OF ASSEMBLY -- 2006 SESSION

## CHAPTER 453

*An Act to amend and reenact § 59.1-204 of the Code of Virginia, relating to the Virginia Consumer Protection Act; actions for damages or penalty.*

[H 1103]

Approved March 31, 2006

**Be it enacted by the General Assembly of Virginia:**

**1. That § 59.1-204 of the Code of Virginia is amended and reenacted as follows:**

§ 59.1-204. Individual action for damages or penalty.

A. Any person who suffers loss as the result of a violation of this chapter shall be entitled to initiate an action to recover actual damages, or \$500, whichever is greater. If the trier of fact finds that the violation was willful, it may increase damages to an amount not exceeding three times the actual damages sustained, or \$1,000, whichever is greater. *Any person who accepts a cure offer under this chapter may not initiate or maintain any other or additional action based on any cause of action arising under any other statute or common law theory if such other action is substantially based on the same allegations of fact on which the action initiated under this chapter is based.*

B. Notwithstanding any other provision of law to the contrary, in addition to any damages awarded, such person also may be awarded reasonable attorneys' fees and court costs.

C. No cure offer shall be admissible in any proceeding initiated under this section, unless the cure offer is delivered by a supplier to the person claiming loss or to any attorney representing such person, prior to the filing of the supplier's initial responsive pleading in such proceeding. If the cure offer is timely delivered by the supplier, then the supplier may introduce the cure offer into evidence at trial. The supplier shall not be liable for such person's attorneys' fees and court costs incurred following delivery of the cure offer unless the actual damages found to have been sustained and awarded, without consideration of attorneys' fees and court costs, exceed the value of the cure offer.

D. In any action which the parties desire to settle all matters in dispute, the question of whether the plaintiff shall be awarded reasonable attorneys' fees and court costs in accordance with subsections B and C may be tendered to the court for consideration of the amount of such an award, if any.