

A CIVIL REMEDY FOR THEFT AND FRAUD

If you have had money or property that has been taken from you by means of theft or fraud, Florida Statute 772.11 may offer some relief to you, and harsh punishment for the perpetrator.



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Florida Statute 772.11, appropriately titled "civil

remedy for theft or exploitation," states "(1) Any person who proves by clear and convincing evidence that he or she has been injured in any fashion by reason of any violation of ss. 812.012-812.037 or s. 825.103(1) has a cause of action for threefold the actual damages sustained and, in any such action, is entitled to minimum damages in the amount of \$200, and reasonable attorney's fees and court costs in the trial and appellate courts."

This could be from passing a bad check, obtaining property by fraud, using property without lawful permission, or one of many other scenarios contemplated by Florida Statutes 812.012-812.037.

For example, if someone writes a retailer a bad check for \$20, and after the store notifies the person, he fails to remedy the problem in an appropriate amount of time, the business can send a letter of

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intention to the individual stating they want \$200. The statute says "threefold the actual damages" or \$200, so this is completely within the statute. If the bad check was for \$100, then the retailer could ask for \$300. Plus the business would be entitled to attorney's fees.

It is important to note that an opportunity must be given to the wrongdoer

to remedy the unlawful act. The "civil theft" statute explicitly states that, "Before filing an action for damages under this section, the person claiming injury must make a written demand for \$200 or the treble damage amount of the person liable for damages under this section."

If within 30 days, the person complies with the notice and pays the due amount, then you are obligated to provide them a release and not to institute litigation. This notice should be sent by certified mail in order to prove that the 30-day notice has been complied with.

It should be noted that this statute also applies to acts committed by minors, holding the parents or legal guardians responsible under the statute.

As the statute also permits attorneys' fees to be collected from the wrongdoer, it is probably in a person's best interests to have an attorney write the notice letter.

However, it is feasible to pursue the claim without an attorney, but you must of course follow the statutes very carefully.

Regardless of the means chosen to pursue this claim, it is valuable to have knowledge of the penalties allowed by Florida Statute 772.11 to protect yourself and/or your business against these criminal wrongdoings.

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