

1 A bill to be entitled
 2 An act relating to the Office of the Attorney General;
 3 amending s. 16.53, F.S.; revising the Legal Affairs
 4 Revolving Trust Fund with regard to which funds are
 5 required to be transferred to the General Revenue Fund
 6 unallocated; amending s. 409.9203, F.S.; providing
 7 that rewards for reporting Medicaid fraud shall be
 8 paid from the Operating Trust Fund; amending ss.
 9 501.203 and 501.204, F.S.; revising obsolete dates;
 10 amending s. 681.102, F.S.; revising definitions;
 11 amending s. 681.104, F.S.; revising notice
 12 requirements; amending s. 681.108, F.S.; revising
 13 duties of the Department of Legal Affairs relating to
 14 manufacturer certification of dispute-settlement
 15 procedures; providing notice requirements for certain
 16 manufacturers seeking renewal of certification or
 17 ceasing operation of a certified procedure; amending
 18 s. 681.109, F.S.; revising notice requirements
 19 relating to the rejection of a dispute by the
 20 department; amending s. 760.34, F.S.; authorizing,
 21 rather than requiring, the office to bring an action
 22 for complaints involving discriminatory housing
 23 practices; providing an effective date.

24
 25 Be It Enacted by the Legislature of the State of Florida:

26
 27 Section 1. Subsection (7) of section 16.53, Florida
 28 Statutes, is amended to read:

29 | 16.53 Legal Affairs Revolving Trust Fund.—

30 | (7) Any moneys remaining in the fund at the end of any
 31 | fiscal year in excess of 3 times the amount of the combined
 32 | budgets for the antitrust, consumer protection, and racketeering
 33 | sections of the Attorney General's office for the forthcoming
 34 | fiscal year shall be transferred to the General Revenue Fund
 35 | unallocated.

36 | Section 2. Subsection (3) of section 409.9203, Florida
 37 | Statutes, is amended to read:

38 | 409.9203 Rewards for reporting Medicaid fraud.—

39 | (3) The reward shall be paid from the Operating ~~Legal~~
 40 | ~~Affairs Revolving~~ Trust Fund from moneys collected pursuant to
 41 | s. 68.085.

42 | Section 3. Subsection (3) of section 501.203, Florida
 43 | Statutes, is amended to read:

44 | 501.203 Definitions.—As used in this chapter, unless the
 45 | context otherwise requires, the term:

46 | (3) "Violation of this part" means any violation of this
 47 | act or the rules adopted under this act and may be based upon
 48 | any of the following as of July 1, 2013 ~~2006~~:

49 | (a) Any rules promulgated pursuant to the Federal Trade
 50 | Commission Act, 15 U.S.C. ss. 41 et seq.;

51 | (b) The standards of unfairness and deception set forth
 52 | and interpreted by the Federal Trade Commission or the federal
 53 | courts;

54 | (c) Any law, statute, rule, regulation, or ordinance which
 55 | proscribes unfair methods of competition, or unfair, deceptive,
 56 | or unconscionable acts or practices.

CS/HB 1147

2013

57 Section 4. Subsection (2) of section 501.204, Florida
58 Statutes, is amended to read:

59 501.204 Unlawful acts and practices.—

60 (2) It is the intent of the Legislature that, in
61 construing subsection (1), due consideration and great weight
62 shall be given to the interpretations of the Federal Trade
63 Commission and the federal courts relating to s. 5(a)(1) of the
64 Federal Trade Commission Act, 15 U.S.C. s. 45(a)(1) as of July
65 1, 2013 ~~2006~~.

66 Section 5. Subsections (14) and (19) of section 681.102,
67 Florida Statutes, are amended to read:

68 681.102 Definitions.—As used in this chapter, the term:

69 (14) "Motor vehicle" means a new vehicle, propelled by
70 power other than muscular power, which is sold or registered in
71 this state to transport persons or property, and includes a
72 recreational vehicle or a vehicle used as a demonstrator or
73 leased vehicle if a manufacturer's warranty was issued as a
74 condition of sale, or the lessee is responsible for repairs, but
75 does not include vehicles run only upon tracks, off-road
76 vehicles, trucks over 10,000 pounds gross vehicle weight,
77 motorcycles, mopeds, or the living facilities of recreational
78 vehicles. "Living facilities of recreational vehicles" are those
79 portions designed, used, or maintained primarily as living
80 quarters and include, but are not limited to, the flooring,
81 plumbing system and fixtures, roof air conditioner, furnace,
82 generator, electrical systems other than automotive circuits,
83 the side entrance door, exterior compartments, and windows other
84 than the windshield and driver and front passenger windows.

CS/HB 1147

2013

85 (19) "Reasonable offset for use" means the number of miles
86 attributable to a consumer up to the date of a settlement
87 agreement or arbitration hearing, whichever occurs first,
88 multiplied by the base selling or sale ~~purchase~~ price of the
89 vehicle as reflected on the purchase invoice, exclusive of
90 taxes, government fees, and dealer fees, or in the case of a
91 lease, the agreed upon value as reflected in the lease agreement
92 and divided by 120,000, except in the case of a recreational
93 vehicle, in which event it shall be divided by 60,000.

94 Section 6. Subsection (1) of section 681.104, Florida
95 Statutes, is amended to read:

96 681.104 Nonconformity of motor vehicles.—

97 (1) (a) After three attempts have been made to repair the
98 same nonconformity, the consumer shall give written
99 notification, ~~by registered or express mail~~ to the manufacturer,
100 by any method providing a delivery confirmation, of the need to
101 repair the nonconformity to allow the manufacturer a final
102 attempt to cure the nonconformity. The manufacturer shall have
103 10 days, commencing upon receipt of such notification, to
104 respond and give the consumer the opportunity to have the motor
105 vehicle repaired at a reasonably accessible repair facility
106 within a reasonable time after the consumer's receipt of the
107 response. The manufacturer shall have 10 days, except in the
108 case of a recreational vehicle, in which event the manufacturer
109 shall have 45 days, commencing upon the delivery of the motor
110 vehicle to the designated repair facility by the consumer, to
111 conform the motor vehicle to the warranty. If the manufacturer
112 fails to respond to the consumer and give the consumer the

113 | opportunity to have the motor vehicle repaired at a reasonably
 114 | accessible repair facility or perform the repairs within the
 115 | time periods prescribed in this subsection, the requirement that
 116 | the manufacturer be given a final attempt to cure the
 117 | nonconformity does not apply.

118 | (b) If the motor vehicle is out of service by reason of
 119 | repair of one or more nonconformities by the manufacturer or its
 120 | authorized service agent for a cumulative total of 15 or more
 121 | days, exclusive of downtime for routine maintenance prescribed
 122 | by the owner's manual, the consumer shall so notify the
 123 | manufacturer in writing by any method providing a delivery
 124 | confirmation ~~registered or express mail~~ to give the manufacturer
 125 | or its authorized service agent an opportunity to inspect or
 126 | repair the vehicle.

127 | Section 7. Section 681.108, Florida Statutes, is amended
 128 | to read:

129 | 681.108 Dispute-settlement procedures.—

130 | (1) If a manufacturer has established a procedure that the
 131 | department has certified as substantially complying with the
 132 | provisions of 16 C.F.R. part 703, in effect October 1, 1983, as
 133 | amended, and with the provisions of this chapter and the rules
 134 | adopted under this chapter, and has informed the consumer how
 135 | and where to file a claim with such procedure pursuant to s.
 136 | 681.103(3), the provisions of s. 681.104(2) apply to the
 137 | consumer only if the consumer has first resorted to such
 138 | procedure. The decisionmakers for a certified procedure shall,
 139 | in rendering decisions, take into account all legal and
 140 | equitable factors germane to a fair and just decision,

141 including, but not limited to, the warranty; the rights and
 142 remedies conferred under 16 C.F.R. part 703, in effect October
 143 1, 1983, as amended; the provisions of this chapter; and any
 144 other equitable considerations appropriate under the
 145 circumstances. Decisionmakers and staff for a procedure shall be
 146 trained in the provisions of this chapter and in 16 C.F.R. part
 147 703, in effect October 1, 1983, as amended. In an action brought
 148 by a consumer concerning an alleged nonconformity, the decision
 149 that results from a certified procedure is admissible in
 150 evidence.

151 (2) A manufacturer may apply to the department for
 152 certification of its procedure. After receipt and evaluation of
 153 the application, the department shall:

154 ~~(a) certify the procedure or~~ Notify the manufacturer of
 155 any deficiencies in the application or the procedure;

156 (b) Certify the procedure as substantially complying with
 157 the provisions of 16 C.F.R. part 703, in effect October 1, 1983,
 158 as amended, and with the provisions of this chapter and rules
 159 adopted under this chapter, for a period not to exceed 1 year;
 160 or

161 (c) Deny certification, stating the reasons for such
 162 denial.

163 (3) A certified procedure or a procedure of an applicant
 164 seeking certification shall submit to the department a copy of
 165 each settlement approved by the procedure or decision made by a
 166 decisionmaker within 30 days after the settlement is reached or
 167 the decision is rendered. The decision or settlement must
 168 contain at a minimum the:

169 (a) Name and address of the consumer;

170 (b) Name of the manufacturer and address of the dealership

171 from which the motor vehicle was purchased;

172 (c) Date the claim was received and the location of the

173 procedure office that handled the claim;

174 (d) Relief requested by the consumer;

175 (e) Name of each decisionmaker rendering the decision or

176 person approving the settlement;

177 (f) Statement of the terms of the settlement or decision;

178 (g) Date of the settlement or decision; and

179 (h) Statement of whether the decision was accepted or

180 rejected by the consumer.

181 (4) Any manufacturer establishing or applying to establish

182 a certified procedure must file with the department a copy of

183 the annual audit required under the provisions of 16 C.F.R. part

184 703, in effect October 1, 1983, as amended, together with any

185 additional information required for purposes of certification,

186 including the number of refunds and replacements made in this

187 state pursuant to the provisions of this chapter by the

188 manufacturer during the period audited.

189 (5) The department shall review each certified procedure

190 at least annually to determine if certification should be

191 renewed. A manufacturer seeking renewal of certification shall

192 notify the department in writing at least 60 days before the end

193 of the 1-year certification period. Upon review, the department

194 shall:, ~~prepare an annual report evaluating the operation of~~

195 ~~certified procedures established by motor vehicle manufacturers~~

196 ~~and procedures of applicants seeking certification, and, for a~~

CS/HB 1147

2013

197 ~~period not to exceed 1 year, shall grant certification to, or~~
198 (a) Renew certification for a period not to exceed 1 year
199 if the procedure is found to ~~, those manufacturers whose~~
200 ~~procedures~~ substantially comply with the provisions of 16 C.F.R.
201 part 703, in effect October 1, 1983, as amended, and with the
202 provisions of this chapter and rules adopted under this chapter;

203 (b) Notify the manufacturer of any deficiencies in the
204 procedure; or

205 (c) Decline to renew certification. If certification is
206 declined, ~~revoked or denied~~, the department shall state the
207 reasons for such action. ~~The reports and records of actions~~
208 ~~taken with respect to certification shall be public records.~~

209 (6) If a manufacturer ceases operation of a certified
210 procedure, the manufacturer shall notify the department
211 immediately in writing, and upon receipt of such notification,
212 the department shall revoke certification for that procedure,
213 effective the date the certified procedure ceased.

214 (7)-(6) A manufacturer whose certification is declined
215 ~~denied or revoked~~ is entitled to a hearing pursuant to chapter
216 120.

217 (8)-(7) If federal preemption of state authority to
218 regulate procedures occurs, the provisions of subsection (1)
219 concerning prior resort do not apply.

220 (9)-(8) The department may adopt rules to administer this
221 section.

222 Section 8. Subsection (6) of section 681.109, Florida
223 Statutes, is amended to read:

224 681.109 Florida New Motor Vehicle Arbitration Board;

CS/HB 1147

2013

225 | dispute eligibility.—

226 | (6) The department may reject a dispute that it determines
227 | to be fraudulent or outside the scope of the board's authority.
228 | Any dispute deemed by the department to be ineligible for
229 | arbitration by the board due to insufficient evidence may be
230 | reconsidered upon the submission of new information regarding
231 | the dispute. The department after a second review, may reject a
232 | dispute if the evidence is clearly insufficient to qualify for
233 | relief. If the department rejects a dispute, it must provide
234 | notice of the rejection and a brief explanation of the reason
235 | for rejection to the consumer and to the manufacturer. ~~If a~~
236 | ~~dispute is rejected by the department, the department shall send~~
237 | ~~by registered mail to the consumer and the manufacturer a brief~~
238 | ~~explanation as to the reason for rejection.~~

239 | Section 9. Subsection (4) of section 760.34, Florida
240 | Statutes, is amended to read:

241 | 760.34 Enforcement.—

242 | (4) If, within 180 days after a complaint is filed with
243 | the commission or within 180 days after expiration of any period
244 | of reference under subsection (3), the commission has been
245 | unable to obtain voluntary compliance with ss. 760.20-760.37,
246 | the person aggrieved may commence a civil action in any
247 | appropriate court against the respondent named in the complaint
248 | or petition for an administrative determination pursuant to s.
249 | 760.35 to enforce the rights granted or protected by ss. 760.20-
250 | 760.37. If, as a result of its investigation under subsection
251 | (1), the commission finds there is reasonable cause to believe
252 | that a discriminatory housing practice has occurred, at the

CS/HB 1147

2013

253 | request of the person aggrieved, the Attorney General may ~~shall~~
254 | bring an action in the name of the state on behalf of the
255 | aggrieved person to enforce the provisions of ss. 760.20-760.37.
256 | Section 10. This act shall take effect July 1, 2013.