

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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Representative Paul offered the following:

Amendment (with title amendment)

Between line(s) 1488 and 1489, insert:

Section 56. In order to implement Specific Appropriations 1335-1339 of the 2003-2004 General Appropriations Act, section 570.544, Florida Statutes, is amended to read:

570.544 Division of Consumer Services; director; powers; ~~processing of complaints;~~ records.--

(1) The director of the Division of Consumer Services shall be appointed by and serve at the pleasure of the commissioner.

(2) The Division of Consumer Services may:

(a) Conduct studies and make analyses of matters affecting the interests of consumers.

(b) Study the operation of laws for consumer protection.

Amendment No. (for drafter's use only)

27 (c) Advise and make recommendations to the various state
28 agencies concerned with matters affecting consumers.

29 (d) Assist, advise, and cooperate with local, state, or
30 federal agencies and officials in order to promote the interests
31 of consumers.

32 (e) Make use of the testing and laboratory facilities of
33 the department for the detection of consumer fraud.

34 (f) Report to the appropriate law enforcement officers any
35 information concerning violation of consumer protection laws.

36 (g) Assist, develop, and conduct programs of consumer
37 education and consumer information through publications and
38 other informational and educational material prepared for
39 dissemination to the public, in order to increase the competence
40 of consumers.

41 (h) Organize and hold conferences on problems affecting
42 consumers.

43 (i) Recommend programs to encourage business and industry
44 to maintain high standards of honesty, fair business practices,
45 and public responsibility in the production, promotion, and sale
46 of consumer goods and services.

47 ~~(3) In addition to the powers, duties, and~~
48 ~~responsibilities authorized by this or any other chapter, the~~
49 ~~Division of Consumer Services shall serve as a clearinghouse for~~
50 ~~matters relating to consumer protection, consumer information,~~
51 ~~and consumer services generally. It shall receive complaints and~~
52 ~~grievances from consumers and promptly transmit them to that~~
53 ~~agency most directly concerned in order that the complaint or~~
54 ~~grievance may be expeditiously handled in the best interests of~~
55 ~~the complaining consumer. If no agency exists, the Division of~~

118247

Amendment No. (for drafter's use only)

56 ~~Consumer Services shall seek a settlement of the complaint using~~
57 ~~formal or informal methods of mediation and conciliation and may~~
58 ~~seek any other resolution of the matter in accordance with its~~
59 ~~jurisdiction.~~

60 ~~(4) If any complaint received by the Division of Consumer~~
61 ~~Services concerns matters which involve concurrent jurisdiction~~
62 ~~in more than one agency, duplicate copies of the complaint shall~~
63 ~~be referred to those offices deemed to have concurrent~~
64 ~~jurisdiction.~~

65 ~~(5)(a) Any agency, office, bureau, division, or board of~~
66 ~~state government receiving a complaint which deals with consumer~~
67 ~~fraud or consumer protection and which is not within the~~
68 ~~jurisdiction of the receiving agency, office, bureau, division,~~
69 ~~or board originally receiving it, shall immediately refer the~~
70 ~~complaint to the Division of Consumer Services.~~

71 ~~(b) Upon receipt of such a complaint, the Division of~~
72 ~~Consumer Services shall make a determination of the proper~~
73 ~~jurisdiction to which the complaint relates and shall~~
74 ~~immediately refer the complaint to the agency, office, bureau,~~
75 ~~division, or board which does have the proper regulatory or~~
76 ~~enforcement authority to deal with it.~~

77 ~~(6)(a) The office or agency to which a complaint has been~~
78 ~~referred shall within 30 days acknowledge receipt of the~~
79 ~~complaint and report on the disposition made of the complaint.~~
80 ~~In the event a complaint has not been disposed of within 30~~
81 ~~days, the receiving office or agency shall file progress reports~~
82 ~~with the Division of Consumer Services no less frequently than~~
83 ~~30 days until final disposition.~~

Amendment No. (for drafter's use only)

84 ~~(b) The report shall contain at least the following~~
85 ~~information:~~

86 ~~1. A finding of whether the receiving agency has~~
87 ~~jurisdiction of the subject matter involved in the complaint.~~

88 ~~2. Whether the complaint is deemed to be frivolous, sham,~~
89 ~~or without basis in fact or law.~~

90 ~~3. What action has been taken and a report on whether the~~
91 ~~original complainant was satisfied with the final disposition.~~

92 ~~4. Any recommendation regarding needed changes in law or~~
93 ~~procedure which in the opinion of the reporting agency or office~~
94 ~~will improve consumer protection in the area involved.~~

95 ~~(7)(a) If the office or agency receiving a complaint fails~~
96 ~~to file a report as contemplated in this section, that failure~~
97 ~~shall be construed as a denial by the receiving office or agency~~
98 ~~that it has jurisdiction of the subject matter contained in the~~
99 ~~complaint.~~

100 ~~(b) If an office or agency receiving a complaint~~
101 ~~determines that the matter presents a prima facie case for~~
102 ~~criminal prosecution or if the complaint cannot be settled at~~
103 ~~the administrative level, the complaint together with all~~
104 ~~supporting evidence shall be transmitted to the Department of~~
105 ~~Legal Affairs or other appropriate enforcement agency with a~~
106 ~~recommendation for civil or criminal action warranted by the~~
107 ~~evidence.~~

108 ~~(3)(8)~~ The records of the Division of Consumer Services
109 are public records. However, customer lists, customer names, and
110 trade secrets are confidential and exempt from the provisions of
111 s. 119.07(1). Disclosure necessary to enforcement procedures
112 shall not be construed as violative of this prohibition.

118247

Amendment No. (for drafter's use only)

113 ~~(4)(9)~~ It shall be the duty of the Division of Consumer
114 Services to maintain records and compile summaries and analyses
115 of consumer complaints under its jurisdiction and their eventual
116 disposition, which data may serve as a basis for recommendations
117 to the Legislature and to state regulatory agencies.

118 Section 57. The amendment of s. 570.544, Florida Statutes,
119 by this act shall expire on July 1, 2004, and the text of that
120 section shall revert to that in existence on June 30, 2003,
121 except that any amendments to such text enacted other than by
122 this act shall be preserved and continue to operate to the
123 extent that such amendments are not dependent upon the portions
124 of such text which expire pursuant to the provisions of this
125 act.

126 Section 58. In order to implement Specific Appropriations
127 1335-1339 of the 2003-2004 General Appropriations Act, section
128 526.3135, Florida Statutes, is amended to read:

129 526.3135 Reports by the Division of Standards.--The
130 Division of Standards is directed to compile a report pursuant
131 to s. 570.544 of all complaints received by the Department of
132 Agriculture and Consumer Services pursuant to this act. Such
133 report shall ~~contain at least the information required by s.~~
134 ~~570.544(6)(b)2.-4. and shall be presented to the Speaker of the~~
135 ~~House of Representatives and the President of the Senate no~~
136 ~~later than January 1 of each year.~~

137 Section 59. The amendment of s. 526.3135, Florida
138 Statutes, by this act shall expire on July 1, 2004, and the text
139 of that section shall revert to that in existence on June 30,
140 2003, except that any amendments to such text enacted other than
141 by this act shall be preserved and continue to operate to the

118247

Amendment No. (for drafter's use only)

142 extent that such amendments are not dependent upon the portions
143 of such text which expire pursuant to the provisions of this
144 act.

145 Section 60. In order to implement Specific Appropriations
146 1335-1339 of the 2003-2004 General Appropriations Act,
147 subsection (2) of section 559.921, Florida Statutes, is amended
148 to read:

149 559.921 Remedies.--

150 (2) The department shall refer ~~process~~ consumer complaints
151 to the Division of Consumer Services according to ss. 570.07 and
152 570.544.

153 Section 61. The amendment of subsection (2) of s. 559.921,
154 Florida Statutes, by this act shall expire on July 1, 2004, and
155 the text of that subsection shall revert to that in existence on
156 June 30, 2003, except that any amendments to such text enacted
157 other than by this act shall be preserved and continue to
158 operate to the extent that such amendments are not dependent
159 upon the portions of such text which expire pursuant to the
160 provisions of this act.

161
162 ===== T I T L E A M E N D M E N T =====

163 Between line(s) 125 and 126, insert:
164 amending s. 570.544, F.S.; eliminating consumer complaint
165 processing responsibilities of the Division of Consumer Services
166 of the Department of Agriculture and Consumer Services; amending
167 ss. 526.3135 and 559.921, F.S., to conform;