

CHAMBER ACTION

1 The State Resources Council recommends the following:

2 **Council/Committee Substitute**

3 Remove the entire bill and insert:

4 A bill to be entitled

5 An act relating to consumer protection; amending ss.
6 501.203 and 501.204, F.S.; changing obsolete dates;
7 reenacting and amending s. 501.207, F.S., relating to
8 remedies of the enforcing authority under the Florida
9 Deceptive and Unfair Trade Practices Act; providing that
10 the court may order actions brought under that act on
11 behalf of an enterprise; creating s. 501.927, F.S.;
12 providing that the use of a creation that is not protected
13 under federal copyright law shall not give rise to a claim
14 or cause of action, except under specified circumstances;
15 providing construction; providing an effective date.

16
17 Be It Enacted by the Legislature of the State of Florida:

18
19 Section 1. Subsection (3) of section 501.203, Florida
20 Statutes, is amended to read:

21 501.203 Definitions.--As used in this chapter, unless the
22 context otherwise requires, the term:

HB 637

2006
CS

23 (3) "Violation of this part" means any violation of this
24 act or the rules adopted under this act and may be based upon
25 any of the following as of July 1, 2006 ~~2001~~:

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

28 (b) The standards of unfairness and deception set forth
29 and interpreted by the Federal Trade Commission or the federal
30 courts;

31 (c) Any law, statute, rule, regulation, or ordinance which
32 proscribes unfair methods of competition, or unfair, deceptive,
33 or unconscionable acts or practices.

34 Section 2. Subsection (2) of section 501.204, Florida
35 Statutes, is amended to read:

36 501.204 Unlawful acts and practices.--

37 (2) It is the intent of the Legislature that, in
38 construing subsection (1), due consideration and great weight
39 shall be given to the interpretations of the Federal Trade
40 Commission and the federal courts relating to s. 5(a)(1) of the
41 Federal Trade Commission Act, 15 U.S.C. s. 45(a)(1) as of July
42 1, 2006 ~~2001~~.

43 Section 3. Subsection (1) of section 501.207, Florida
44 Statutes, is reenacted, and subsection (3) of that section is
45 amended to read:

46 501.207 Remedies of enforcing authority.--

47 (1) The enforcing authority may bring:

48 (a) An action to obtain a declaratory judgment that an act
49 or practice violates this part.

HB 637

2006
CS

50 (b) An action to enjoin any person who has violated, is
51 violating, or is otherwise likely to violate, this part.

52 (c) An action on behalf of one or more consumers or
53 governmental entities for the actual damages caused by an act or
54 practice in violation of this part. However, damages are not
55 recoverable under this section against a retailer who has in
56 good faith engaged in the dissemination of claims of a
57 manufacturer or wholesaler without actual knowledge that it
58 violated this part.

59 (3) Upon motion of the enforcing authority or any
60 interested party in any action brought under subsection (1), the
61 court may make appropriate orders, including, but not limited
62 to, appointment of a general or special magistrate or receiver
63 or sequestration or freezing of assets, to reimburse consumers
64 or governmental entities found to have been damaged; to carry
65 out a transaction in accordance with the reasonable expectations
66 of consumers or governmental entities; to strike or limit the
67 application of clauses of contracts to avoid an unconscionable
68 result; to bring actions in the name of and on behalf of the
69 defendant enterprise; to order any defendant to divest herself
70 or himself of any interest in any enterprise, including real
71 estate; to impose reasonable restrictions upon the future
72 activities of any defendant to impede her or him from engaging
73 in or establishing the same type of endeavor; to order the
74 dissolution or reorganization of any enterprise; or to grant
75 ~~legal, equitable, or~~ other appropriate relief. The court may
76 assess the expenses of a general or special magistrate or
77 receiver against a person who has violated, is violating, or is

Page 3 of 4

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

hb0637-01-c1

HB 637

2006
CS

78 otherwise likely to violate this part. Any injunctive order,
79 whether temporary or permanent, issued by the court shall be
80 effective throughout the state unless otherwise provided in the
81 order.

82 Section 4. Section 501.927, Florida Statutes, is created
83 to read:

84 501.927 Actions based upon use of a creation not protected
85 under federal copyright law.--

86 (1) Except as provided in subsection (2), the use of an
87 idea, procedure, process, system, method of operation, concept,
88 principle, discovery, thought, or other creation that is not a
89 work of authorship protected under federal copyright law shall
90 not give rise to a claim or cause of action, in law or in
91 equity, unless the parties to the claim or cause of action have
92 executed a writing sufficient to indicate that a contract has
93 been made between them governing such use.

94 (2) Nothing in subsection (1) shall affect or limit:

95 (a) Any cause of action based in copyright, trademark,
96 patent, or trade secret; or

97 (b) Any defense raised in connection with a cause of
98 action described in paragraph (a).

99 Section 5. This act shall take effect July 1, 2006.