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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/29/2011	.	
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The Committee on Commerce and Tourism (Detert) recommended the following:

Senate Amendment to Amendment (749088)

Delete lines 1298 - 1465
and insert:

Section 44. Section 681.109, Florida Statutes, is amended
to read:

681.109 Florida New Motor Vehicle Arbitration Board;
dispute eligibility.-

(1) If a manufacturer has a certified procedure, a consumer
claim arising during the Lemon Law rights period must be filed
with the certified procedure no later than 60 days after the
expiration of the Lemon Law rights period. If a decision is not



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13 rendered by the certified procedure within 40 days of filing,
14 the consumer may apply to the department ~~division~~ to have the
15 dispute removed to the board for arbitration.

16 (2) If a manufacturer has a certified procedure, a consumer
17 claim arising during the Lemon Law rights period must be filed
18 with the certified procedure no later than 60 days after the
19 expiration of the Lemon Law rights period. If a consumer is not
20 satisfied with the decision or the manufacturer's compliance
21 therewith, the consumer may apply to the department ~~division~~ to
22 have the dispute submitted to the board for arbitration. A
23 manufacturer may not seek review of a decision made under its
24 procedure.

25 (3) If a manufacturer does not have a ~~has no~~ certified
26 procedure or if the ~~a~~ certified procedure does not have
27 jurisdiction to resolve the dispute, a consumer may apply
28 directly to the department ~~division~~ to have the dispute
29 submitted to the board for arbitration.

30 (4) A consumer must request arbitration before the board
31 with respect to a claim arising during the Lemon Law rights
32 period no later than 60 days after the expiration of the Lemon
33 Law rights period, or within 30 days after the final action of a
34 certified procedure, whichever date occurs later.

35 (5) The department ~~division~~ shall screen all requests for
36 arbitration before the board to determine eligibility. The
37 consumer's request for arbitration before the board shall be
38 made on a form prescribed by the department. The department
39 ~~division~~ shall forward to the board all disputes that the
40 department ~~division~~ determines are potentially entitled to
41 relief under this chapter.



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42 (6) The department ~~division~~ may reject a dispute that it
43 determines to be fraudulent or outside the scope of the board's
44 authority. Any dispute deemed by the department ~~division~~ to be
45 ineligible for arbitration by the board due to insufficient
46 evidence may be reconsidered upon the submission of new
47 information regarding the dispute. Following a second review,
48 the department ~~division~~ may reject a dispute if the evidence is
49 clearly insufficient to qualify for relief. If the department
50 rejects a dispute, it must provide notice of the rejection and a
51 brief explanation of the reason for rejection ~~Any dispute~~
52 ~~rejected by the division shall be forwarded to the department~~
53 ~~and a copy shall be sent by registered mail to the consumer and~~
54 ~~to the manufacturer, containing a brief explanation as to the~~
55 ~~reason for rejection.~~

56 (7) If the department ~~division~~ rejects a dispute, the
57 consumer may file a lawsuit to enforce the remedies provided
58 under this chapter. In any civil action arising under this
59 chapter and relating to a matter considered by the department
60 ~~division~~, any determination made to reject a dispute is
61 admissible in evidence.

62 (8) The department ~~may~~ shall have the authority to adopt
63 ~~reasonable~~ rules to administer ~~carry out the provisions of this~~
64 ~~section.~~

65 Section 45. Subsections (2), (3), (4), (5), (9), (11), and
66 (12) of section 681.1095, Florida Statutes, are amended, and
67 subsection (17) is added to that section, to read:

68 681.1095 Florida New Motor Vehicle Arbitration Board;
69 creation and function.-

70 (2) The board ~~boards~~ shall hear cases in various locations



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71 throughout the state so that any consumer whose dispute is
72 approved for arbitration by the department ~~division~~ may attend
73 an arbitration hearing at a reasonably convenient location and
74 present a dispute orally. Hearings shall be conducted by panels
75 of three board members assigned by the department. A majority
76 vote of the three-member board panel shall be required to render
77 a decision. Arbitration proceedings under this section shall be
78 open to the public on reasonable and nondiscriminatory terms.

79 (3) Each region of the board shall consist of up to eight
80 members. The members of the board shall construe and apply the
81 provisions of this chapter, and rules adopted thereunder, in
82 making their decisions. An administrator and a secretary shall
83 be assigned to each region of the board by the Department of
84 Legal Affairs. At least one member of the ~~each~~ board in each
85 region must have ~~be a person with~~ expertise in motor vehicle
86 mechanics. A member may ~~must~~ not be employed by a manufacturer
87 or a franchised motor vehicle dealer or be a staff member, a
88 decisionmaker, or a consultant for a procedure. Board members
89 shall be trained in the application of this chapter and any
90 rules adopted under this chapter. Members of the board, shall be
91 ~~reimbursed for travel expenses pursuant to s. 112.061, and shall~~
92 ~~be~~ compensated at a rate ~~or wage~~ prescribed by the Attorney
93 General and are entitled to reimbursement for per diem and
94 travel expenses pursuant to s. 112.061.

95 (4) Before filing a civil action on a matter subject to s.
96 681.104, the consumer must first submit the dispute to the
97 department ~~division~~, and to the board if such dispute is deemed
98 eligible for arbitration.

99 (5) Manufacturers shall submit to arbitration conducted by



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100 the board if such arbitration is requested by a consumer and the
101 dispute is deemed eligible for arbitration by the department
102 ~~division~~ pursuant to s. 681.109.

103 (9) The decision of the board shall be sent by any method
104 providing a delivery confirmation ~~registered mail~~ to the
105 consumer and the manufacturer, and shall contain written
106 findings of fact and rationale for the decision. If the decision
107 is in favor of the consumer, the manufacturer must, within 40
108 days after receipt of the decision, comply with the terms of the
109 decision. Compliance occurs on the date the consumer receives
110 delivery of an acceptable replacement motor vehicle or the
111 refund specified in the arbitration award. In any civil action
112 arising under this chapter and relating to a dispute arbitrated
113 before the board, any decision by the board is admissible in
114 evidence.

115 (11) ~~All provisions in~~ This section and s. 681.109
116 pertaining to compulsory arbitration before the board, the
117 dispute eligibility screening by the department ~~division~~, the
118 proceedings and decisions of the board, and any appeals thereof,
119 are exempt from ~~the provisions of~~ chapter 120.

120 (12) An appeal of a decision by the board to the circuit
121 court by a consumer or a manufacturer shall be by trial de novo.
122 In a written petition to appeal a decision by the board, the
123 appealing party must state the action requested and the grounds
124 relied upon for appeal. Within 15 ~~30~~ days after ~~of~~ final
125 disposition of the appeal, the appealing party shall furnish the
126 department with ~~notice of such disposition and, upon request,~~
127 ~~shall furnish the department with~~ a copy of the settlement or
128 the order or judgment of the court.



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129 (17) The department may adopt rules to administer this
130 section.

131 Section 46. Subsections (2) and (4) of section 681.1096,
132 Florida Statutes, are amended to read:

133 681.1096 RV Mediation and Arbitration Program; creation and
134 qualifications.—

135 (2) Each manufacturer of a recreational vehicle involved in
136 a dispute that is determined eligible under this chapter,
137 including chassis and component manufacturers that ~~which~~
138 separately warrant the chassis and components and that ~~which~~
139 otherwise meet the definition of manufacturer set forth in s.
140 681.102(13) ~~681.102(14)~~, shall participate in a mediation and
141 arbitration program that is deemed qualified by the department.

142 (4) The department shall monitor the program for compliance
143 with this chapter. If the program is determined not qualified or
144 if qualification is revoked, then disputes shall be subject to
145 the provisions of ss. 681.109 and 681.1095. If the program is
146 determined not qualified or if qualification is revoked as to a
147 manufacturer, all those manufacturers potentially involved in
148 the eligible consumer dispute shall be required to submit to
149 arbitration conducted by the board if such arbitration is
150 requested by a consumer and the dispute is deemed eligible for
151 arbitration by the department ~~division~~ pursuant to s. 681.109. A
152 consumer having a dispute involving one or more manufacturers
153 for which the program has been determined not qualified, or for
154 which qualification has been revoked, is not required to submit
155 the dispute to the program irrespective of whether the program
156 may be qualified as to some of the manufacturers potentially
157 involved in the dispute.



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158 Section 47. Subsection (2) of section 681.112, Florida
159 Statutes, is amended to read:

160 681.112 Consumer remedies.—

161 (2) An action brought under this chapter must be commenced
162 within 1 year after the expiration of the Lemon Law rights
163 period, or, if a consumer resorts to an informal dispute-
164 settlement procedure or submits a dispute to the department
165 ~~division~~ or board, within 1 year after the final action of the
166 procedure, department division, or board.

167 Section 48. Subsection (1) of section 681.117, Florida
168 Statutes, is amended to read:

169 681.117 Fee.—

170 (1) A \$2 fee shall be collected by a motor vehicle dealer,
171 or by a person engaged in the business of leasing motor
172 vehicles, from the consumer at the consummation of the sale of a
173 motor vehicle or at the time of entry into a lease agreement for
174 a motor vehicle. Such fees shall be remitted to the county tax
175 collector or private tag agency acting as agent for the
176 Department of Revenue. If the purchaser or lessee removes the
177 motor vehicle from the state for titling and registration
178 outside this state, the fee shall be remitted to the Department
179 of Revenue. All fees, less the cost of administration, shall be
180 transferred monthly to the Department of Legal Affairs for
181 deposit into the Motor Vehicle Warranty Trust Fund. ~~The~~
182 ~~Department of Legal Affairs shall distribute monthly an amount~~
183 ~~not exceeding one-fourth of the fees received to the Division of~~
184 ~~Consumer Services of the Department of Agriculture and Consumer~~
185 ~~Services to carry out the provisions of ss. 681.108 and 681.109.~~
186 ~~The Department of Legal Affairs shall contract with the Division~~



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187 ~~of Consumer Services for payment of services performed by the~~
188 ~~division pursuant to ss. 681.108 and 681.109.~~
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