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CS/CS/HB 1147

2013 Legislature

1
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 a definition;
11 amending s. 681.108, F.S.; revising duties of the
12 Department of Legal Affairs relating to manufacturer
13 certification of dispute-settlement procedures;
14 providing notice requirements for certain
15 manufacturers seeking renewal of certification or
16 ceasing operation of a certified procedure; amending
17 s. 681.109, F.S.; revising notice requirements
18 relating to the rejection of a dispute by the
19 department; amending s. 760.34, F.S.; authorizing,
20 rather than requiring, the office to bring an action
21 for complaints involving discriminatory housing
22 practices; providing an effective date.

23
24 Be It Enacted by the Legislature of the State of Florida:

25
26 Section 1. Subsection (7) of section 16.53, Florida
27 Statutes, is amended to read:

28 16.53 Legal Affairs Revolving Trust Fund.—

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

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

37 409.9203 Rewards for reporting Medicaid fraud.—

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

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

43 501.203 Definitions.—As used in this chapter, unless the
44 context otherwise requires, the term:

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

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

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

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

56 Section 4. Subsection (2) of section 501.204, Florida

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57 Statutes, is amended to read:

58 501.204 Unlawful acts and practices.—

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

65 Section 5. Subsection (19) of section 681.102, Florida
66 Statutes, is amended to read:

67 681.102 Definitions.—As used in this chapter, the term:

68 (19) "Reasonable offset for use" means the number of miles
69 attributable to a consumer up to the date of a settlement
70 agreement or arbitration hearing, whichever occurs first,
71 multiplied by the base selling or sale ~~purchase~~ price of the
72 vehicle as reflected on the purchase invoice, exclusive of
73 taxes, government fees, and dealer fees, or in the case of a
74 lease, the agreed upon value as reflected in the lease agreement
75 and divided by 120,000, except in the case of a recreational
76 vehicle, in which event it shall be divided by 60,000.

77 Section 6. Section 681.108, Florida Statutes, is amended
78 to read:

79 681.108 Dispute-settlement procedures.—

80 (1) If a manufacturer has established a procedure that the
81 department has certified as substantially complying with the
82 provisions of 16 C.F.R. part 703, in effect October 1, 1983, as
83 amended, and with the provisions of this chapter and the rules
84 adopted under this chapter, and has informed the consumer how

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85 | and where to file a claim with such procedure pursuant to s.
86 | 681.103(3), the provisions of s. 681.104(2) apply to the
87 | consumer only if the consumer has first resorted to such
88 | procedure. The decisionmakers for a certified procedure shall,
89 | in rendering decisions, take into account all legal and
90 | equitable factors germane to a fair and just decision,
91 | including, but not limited to, the warranty; the rights and
92 | remedies conferred under 16 C.F.R. part 703, in effect October
93 | 1, 1983, as amended; the provisions of this chapter; and any
94 | other equitable considerations appropriate under the
95 | circumstances. Decisionmakers and staff for a procedure shall be
96 | trained in the provisions of this chapter and in 16 C.F.R. part
97 | 703, in effect October 1, 1983, as amended. In an action brought
98 | by a consumer concerning an alleged nonconformity, the decision
99 | that results from a certified procedure is admissible in
100 | evidence.

101 | (2) A manufacturer may apply to the department for
102 | certification of its procedure. After receipt and evaluation of
103 | the application, the department shall:

104 | ~~(a) certify the procedure or~~ Notify the manufacturer of
105 | any deficiencies in the application or the procedure;

106 | (b) Certify the procedure as substantially complying with
107 | the provisions of 16 C.F.R. part 703, in effect October 1, 1983,
108 | as amended, and with the provisions of this chapter and rules
109 | adopted under this chapter, for a period not to exceed 1 year;
110 | or

111 | (c) Deny certification, stating the reasons for such
112 | denial.

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113 (3) A certified procedure or a procedure of an applicant
114 seeking certification shall submit to the department a copy of
115 each settlement approved by the procedure or decision made by a
116 decisionmaker within 30 days after the settlement is reached or
117 the decision is rendered. The decision or settlement must
118 contain at a minimum the:

- 119 (a) Name and address of the consumer;
- 120 (b) Name of the manufacturer and address of the dealership
121 from which the motor vehicle was purchased;
- 122 (c) Date the claim was received and the location of the
123 procedure office that handled the claim;
- 124 (d) Relief requested by the consumer;
- 125 (e) Name of each decisionmaker rendering the decision or
126 person approving the settlement;
- 127 (f) Statement of the terms of the settlement or decision;
- 128 (g) Date of the settlement or decision; and
- 129 (h) Statement of whether the decision was accepted or
130 rejected by the consumer.

131 (4) Any manufacturer establishing or applying to establish
132 a certified procedure must file with the department a copy of
133 the annual audit required under the provisions of 16 C.F.R. part
134 703, in effect October 1, 1983, as amended, together with any
135 additional information required for purposes of certification,
136 including the number of refunds and replacements made in this
137 state pursuant to the provisions of this chapter by the
138 manufacturer during the period audited.

139 (5) The department shall review each certified procedure
140 at least annually to determine if certification should be

141 renewed. A manufacturer seeking renewal of certification shall
 142 notify the department in writing at least 60 days before the end
 143 of the 1-year certification period. Upon review, the department
 144 shall: ~~prepare an annual report evaluating the operation of~~
 145 ~~certified procedures established by motor vehicle manufacturers~~
 146 ~~and procedures of applicants seeking certification, and, for a~~
 147 ~~period not to exceed 1 year, shall grant certification to, or~~
 148 (a) Renew certification for a period not to exceed 1 year
 149 if the procedure is found to ~~those manufacturers whose~~
 150 ~~procedures~~ substantially comply with the provisions of 16 C.F.R.
 151 part 703, in effect October 1, 1983, as amended, and with the
 152 provisions of this chapter and rules adopted under this chapter;
 153 (b) Notify the manufacturer of any deficiencies in the
 154 procedure; or
 155 (c) Decline to renew certification. If certification is
 156 declined, ~~revoked or denied~~, the department shall state the
 157 reasons for such action. ~~The reports and records of actions~~
 158 ~~taken with respect to certification shall be public records.~~
 159 (6) If a manufacturer ceases operation of a certified
 160 procedure, the manufacturer shall notify the department
 161 immediately in writing, and upon receipt of such notification,
 162 the department shall revoke certification for that procedure,
 163 effective the date the certified procedure ceased.
 164 (7)-(6) A manufacturer whose certification is declined
 165 ~~denied or revoked~~ is entitled to a hearing pursuant to chapter
 166 120.
 167 (8)-(7) If federal preemption of state authority to
 168 regulate procedures occurs, the provisions of subsection (1)

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169 concerning prior resort do not apply.

170 (9)~~(8)~~ The department may adopt rules to administer this
171 section.

172 Section 7. Subsection (6) of section 681.109, Florida
173 Statutes, is amended to read:

174 681.109 Florida New Motor Vehicle Arbitration Board;
175 dispute eligibility.—

176 (6) The department may reject a dispute that it determines
177 to be fraudulent or outside the scope of the board's authority.
178 Any dispute deemed by the department to be ineligible for
179 arbitration by the board due to insufficient evidence may be
180 reconsidered upon the submission of new information regarding
181 the dispute. The department after a second review, may reject a
182 dispute if the evidence is clearly insufficient to qualify for
183 relief. If the department rejects a dispute, it must provide
184 notice of the rejection and a brief explanation of the reason
185 for rejection to the consumer and to the manufacturer. ~~If a~~
186 ~~dispute is rejected by the department, the department shall send~~
187 ~~by registered mail to the consumer and the manufacturer a brief~~
188 ~~explanation as to the reason for rejection.~~

189 Section 8. Subsection (4) of section 760.34, Florida
190 Statutes, is amended to read:

191 760.34 Enforcement.—

192 (4) If, within 180 days after a complaint is filed with
193 the commission or within 180 days after expiration of any period
194 of reference under subsection (3), the commission has been
195 unable to obtain voluntary compliance with ss. 760.20-760.37,
196 the person aggrieved may commence a civil action in any

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197 appropriate court against the respondent named in the complaint
198 or petition for an administrative determination pursuant to s.
199 760.35 to enforce the rights granted or protected by ss. 760.20-
200 760.37. If, as a result of its investigation under subsection
201 (1), the commission finds there is reasonable cause to believe
202 that a discriminatory housing practice has occurred, at the
203 request of the person aggrieved, the Attorney General may ~~shall~~
204 bring an action in the name of the state on behalf of the
205 aggrieved person to enforce the provisions of ss. 760.20-760.37.
206 Section 9. This act shall take effect July 1, 2013.