

By Senator Lee

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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 recertification of a procedure
17 or ceasing operation of a certified procedure;
18 amending s. 681.109, F.S.; revising notice
19 requirements relating to the rejection of a dispute by
20 the 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.—

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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 and racketeering~~ sections of the
33 Attorney General's office supported by the fund for the
34 forthcoming fiscal year shall be transferred to the General
35 Revenue Fund 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 and
52 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.

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

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59 501.204 Unlawful acts and practices.—

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

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

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

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

84 (19) "Reasonable offset for use" means the number of miles
85 attributable to a consumer up to the date of a settlement
86 agreement or arbitration hearing, whichever occurs first,
87 multiplied by the base selling or sale ~~purchase~~ price of the

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88 vehicle as reflected on the purchase invoice, exclusive of
89 taxes, government fees, and dealer fees, or in the case of a
90 lease, the agreed upon value as reflected in the lease agreement
91 and divided by 120,000, except in the case of a recreational
92 vehicle, in which event it shall be divided by 60,000.

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

95 681.104 Nonconformity of motor vehicles.—

96 (1) (a) After three attempts have been made to repair the
97 same nonconformity, the consumer shall give written
98 notification, ~~by registered or express mail~~ to the manufacturer,
99 by any method providing a delivery confirmation, of the need to
100 repair the nonconformity to allow the manufacturer a final
101 attempt to cure the nonconformity. The manufacturer shall have
102 10 days, commencing upon receipt of such notification, to
103 respond and give the consumer the opportunity to have the motor
104 vehicle repaired at a reasonably accessible repair facility
105 within a reasonable time after the consumer's receipt of the
106 response. The manufacturer shall have 10 days, except in the
107 case of a recreational vehicle, in which event the manufacturer
108 shall have 45 days, commencing upon the delivery of the motor
109 vehicle to the designated repair facility by the consumer, to
110 conform the motor vehicle to the warranty. If the manufacturer
111 fails to respond to the consumer and give the consumer the
112 opportunity to have the motor vehicle repaired at a reasonably
113 accessible repair facility or perform the repairs within the
114 time periods prescribed in this subsection, the requirement that
115 the manufacturer be given a final attempt to cure the
116 nonconformity does not apply.

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

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

128 681.108 Dispute-settlement procedures.-

129 (1) If a manufacturer has established a procedure that the
130 department has certified as substantially complying with the
131 provisions of 16 C.F.R. part 703, in effect October 1, 1983, as
132 amended, and with the provisions of this chapter and the rules
133 adopted under this chapter, and has informed the consumer how
134 and where to file a claim with such procedure pursuant to s.
135 681.103(3), the provisions of s. 681.104(2) apply to the
136 consumer only if the consumer has first resorted to such
137 procedure. The decisionmakers for a certified procedure shall,
138 in rendering decisions, take into account all legal and
139 equitable factors germane to a fair and just decision,
140 including, but not limited to, the warranty; the rights and
141 remedies conferred under 16 C.F.R. part 703, in effect October
142 1, 1983, as amended; the provisions of this chapter; and any
143 other equitable considerations appropriate under the
144 circumstances. Decisionmakers and staff for a procedure shall be
145 trained in the provisions of this chapter and in 16 C.F.R. part

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146 703, in effect October 1, 1983, as amended. In an action brought
147 by a consumer concerning an alleged nonconformity, the decision
148 that results from a certified procedure is admissible in
149 evidence.

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

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

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

160 (c) Deny certification of the procedure and state the
161 reason for such denial.

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

168 (a) Name and address of the consumer;

169 (b) Name of the manufacturer and address of the dealership
170 from which the motor vehicle was purchased;

171 (c) Date the claim was received and the location of the
172 procedure office that handled the claim;

173 (d) Relief requested by the consumer;

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

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175 person approving the settlement;

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

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

178 (h) Statement of whether the decision was accepted or
179 rejected by the consumer.

180 (4) Any manufacturer establishing or applying to establish
181 a certified procedure must file with the department a copy of
182 the annual audit required under the provisions of 16 C.F.R. part
183 703, in effect October 1, 1983, as amended, together with any
184 additional information required for purposes of certification,
185 including the number of refunds and replacements made in this
186 state pursuant to the provisions of this chapter by the
187 manufacturer during the period audited.

188 (5) The department shall review each certified procedure at
189 least annually to determine if the procedure should be
190 recertified. A manufacturer seeking recertification of its
191 procedure shall notify the department in writing at least 60
192 days before the end of the 1-year certification period. Upon
193 review, the department shall: ~~prepare an annual report~~
194 ~~evaluating the operation of certified procedures established by~~
195 ~~motor vehicle manufacturers and procedures of applicants seeking~~
196 ~~certification, and, for a period not to exceed 1 year, shall~~
197 ~~grant certification to, or~~

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

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

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

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

216 (7)~~(6)~~ A manufacturer whose certification is declined
217 ~~denied or revoked~~ is entitled to a hearing pursuant to chapter
218 120.

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

222 (9)~~(8)~~ The department may adopt rules to administer this
223 section.

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

226 681.109 Florida New Motor Vehicle Arbitration Board;
227 dispute eligibility.—

228 (6) The department may reject a dispute that it determines
229 to be fraudulent or outside the scope of the board's authority.
230 Any dispute deemed by the department to be ineligible for
231 arbitration by the board due to insufficient evidence may be
232 reconsidered upon the submission of new information regarding

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233 the dispute. The department after a second review, may reject a
234 dispute if the evidence is clearly insufficient to qualify for
235 relief. If the department rejects a dispute, it must provide
236 notice of the rejection and a brief explanation of the reason
237 for rejection to the consumer and to the manufacturer ~~If a~~
238 ~~dispute is rejected by the department, the department shall send~~
239 ~~by registered mail to the consumer and the manufacturer a brief~~
240 ~~explanation as to the reason for rejection.~~

241 Section 9. Subsection (4) of section 760.34, Florida
242 Statutes, is amended to read:

243 760.34 Enforcement.—

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

258 Section 10. This act shall take effect July 1, 2013.