

CHAPTER 2013-207

Committee Substitute for Committee Substitute for House Bill No. 1147

An act relating to the Office of the Attorney General; amending s. 16.53, F.S.; revising the Legal Affairs Revolving Trust Fund with regard to which funds are required to be transferred to the General Revenue Fund unallocated; amending s. 409.9203, F.S.; providing that rewards for reporting Medicaid fraud shall be paid from the Operating Trust Fund; amending ss. 501.203 and 501.204, F.S.; revising obsolete dates; amending s. 681.102, F.S.; revising a definition; amending s. 681.108, F.S.; revising duties of the Department of Legal Affairs relating to manufacturer certification of dispute-settlement procedures; providing notice requirements for certain manufacturers seeking renewal of certification or ceasing operation of a certified procedure; amending s. 681.109, F.S.; revising notice requirements relating to the rejection of a dispute by the department; amending s. 760.34, F.S.; authorizing, rather than requiring, the office to bring an action for complaints involving discriminatory housing practices; providing an effective date.

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

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

16.53 Legal Affairs Revolving Trust Fund.—

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

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

409.9203 Rewards for reporting Medicaid fraud.—

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

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

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

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

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

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

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

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

501.204 Unlawful acts and practices.—

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

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

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

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

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

681.108 Dispute-settlement procedures.—

(1) If a manufacturer has established a procedure that the department has certified as substantially complying with the provisions of 16 C.F.R. part 703, in effect October 1, 1983, as amended, and with the provisions of this chapter and the rules adopted under this chapter, and has informed the consumer how and where to file a claim with such procedure pursuant to s. 681.103(3), the provisions of s. 681.104(2) apply to the consumer only if the consumer has first resorted to such procedure. The decisionmakers for a certified procedure shall, in rendering decisions, take into account all legal

and equitable factors germane to a fair and just decision, including, but not limited to, the warranty; the rights and remedies conferred under 16 C.F.R. part 703, in effect October 1, 1983, as amended; the provisions of this chapter; and any other equitable considerations appropriate under the circumstances. Decisionmakers and staff for a procedure shall be trained in the provisions of this chapter and in 16 C.F.R. part 703, in effect October 1, 1983, as amended. In an action brought by a consumer concerning an alleged nonconformity, the decision that results from a certified procedure is admissible in evidence.

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

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

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

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

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

(a) Name and address of the consumer;

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

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

(d) Relief requested by the consumer;

(e) Name of each decisionmaker rendering the decision or person approving the settlement;

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

(g) Date of the settlement or decision; and

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

(4) Any manufacturer establishing or applying to establish a certified procedure must file with the department a copy of the annual audit required under the provisions of 16 C.F.R. part 703, in effect October 1, 1983, as

amended, together with any additional information required for purposes of certification, including the number of refunds and replacements made in this state pursuant to the provisions of this chapter by the manufacturer during the period audited.

(5) The department shall review each certified procedure at least annually to determine if certification should be renewed. A manufacturer seeking renewal of certification shall notify the department in writing at least 60 days before the end of the 1-year certification period. Upon review, the department shall:; ~~prepare an annual report evaluating the operation of certified procedures established by motor vehicle manufacturers and procedures of applicants seeking certification, and, for a period not to exceed 1 year, shall grant certification to, or~~

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

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

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

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

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

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

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

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

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

(6) The department may reject a dispute that it determines to be fraudulent or outside the scope of the board's authority. Any dispute deemed by the department to be ineligible for arbitration by the board due to insufficient evidence may be reconsidered upon the submission of new information regarding the dispute. The department after a second review, may reject a dispute if the evidence is clearly insufficient to qualify for relief.

If the department rejects a dispute, it must provide notice of the rejection and a brief explanation of the reason for rejection to the consumer and to the manufacturer. ~~If a dispute is rejected by the department, the department shall send by registered mail to the consumer and the manufacturer a brief explanation as to the reason for rejection.~~

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

760.34 Enforcement.—

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

Section 9. This act shall take effect July 1, 2013.

Approved by the Governor June 14, 2013.

Filed in Office Secretary of State June 14, 2013.