

By the Committee on Appropriations; and Senator Lee

576-04649-13

20131464c1

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 the definition of
11 the term "reasonable offset for use"; amending s.
12 681.108, F.S.; revising duties of the Department of
13 Legal Affairs relating to manufacturer certification
14 of dispute-settlement procedures; providing notice
15 requirements for certain manufacturers seeking
16 recertification of a procedure or ceasing operation of
17 a certified procedure; amending s. 681.109, F.S.;
18 revising notice requirements relating to the rejection
19 of a dispute by the department; amending s. 760.34,
20 F.S.; authorizing, rather than requiring, the office
21 to bring an action for complaints involving
22 discriminatory housing practices; providing an
23 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.—

576-04649-13

20131464c1

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, consumer protection, and racketeering
33 sections of the Attorney General's office for the forthcoming
34 fiscal year shall be transferred to the General Revenue Fund
35 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:

576-04649-13

20131464c1

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. 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
75 agreement, and divided by 120,000, except in the case of a
76 recreational vehicle, in which event it shall be divided by
77 60,000.

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

80 681.108 Dispute-settlement procedures.—

81 (1) If a manufacturer has established a procedure that the
82 department has certified as substantially complying with the
83 provisions of 16 C.F.R. part 703, in effect October 1, 1983, as
84 amended, and with the provisions of this chapter and the rules
85 adopted under this chapter, and has informed the consumer how
86 and where to file a claim with such procedure pursuant to s.
87 681.103(3), the provisions of s. 681.104(2) apply to the

576-04649-13

20131464c1

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

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

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

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

112 (c) Deny certification of the procedure and state the
113 reason for such denial.

114 (3) A certified procedure or a procedure of an applicant
115 seeking certification shall submit to the department a copy of
116 each settlement approved by the procedure or decision made by a

576-04649-13

20131464c1

117 decisionmaker within 30 days after the settlement is reached or
118 the decision is rendered. The decision or settlement must
119 contain at a minimum the:

120 (a) Name and address of the consumer;

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

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

125 (d) Relief requested by the consumer;

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

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

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

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

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

140 (5) The department shall review each certified procedure at
141 least annually to determine if the procedure should be
142 recertified. A manufacturer seeking recertification of its
143 procedure shall notify the department in writing at least 60
144 days before the end of the 1-year certification period. Upon
145 review, the department shall: ~~prepare an annual report~~

576-04649-13

20131464c1

146 ~~evaluating the operation of certified procedures established by~~
147 ~~motor vehicle manufacturers and procedures of applicants seeking~~
148 ~~certification, and, for a period not to exceed 1 year, shall~~
149 ~~grant certification to, or~~

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

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

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

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

168 (7) ~~(6)~~ A manufacturer whose certification is declined
169 ~~denied or revoked~~ is entitled to a hearing pursuant to chapter
170 120.

171 (8) ~~(7)~~ If federal preemption of state authority to regulate
172 procedures occurs, the provisions of subsection (1) concerning
173 prior resort do not apply.

174 (9) ~~(8)~~ The department may adopt rules to administer this

576-04649-13

20131464c1

175 section.

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

178 681.109 Florida New Motor Vehicle Arbitration Board;
179 dispute eligibility.—

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

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

195 760.34 Enforcement.—

196 (4) If, within 180 days after a complaint is filed with the
197 commission or within 180 days after expiration of any period of
198 reference under subsection (3), the commission has been unable
199 to obtain voluntary compliance with ss. 760.20-760.37, the
200 person aggrieved may commence a civil action in any appropriate
201 court against the respondent named in the complaint or petition
202 for an administrative determination pursuant to s. 760.35 to
203 enforce the rights granted or protected by ss. 760.20-760.37.

576-04649-13

20131464c1

204 If, as a result of its investigation under subsection (1), the
205 commission finds there is reasonable cause to believe that a
206 discriminatory housing practice has occurred, at the request of
207 the person aggrieved, the Attorney General may ~~shall~~ bring an
208 action in the name of the state on behalf of the aggrieved
209 person to enforce the provisions of ss. 760.20-760.37.

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