

O.C.G.A. Title 10, Ch. 1, Art. 21

Current through the 2023 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 1 Selling and Other Trade Practices (Arts. 1 — 36) > Article 21 Buying Services (§§ 10-1-590 — 10-1-606)

Article 21 Buying Services

Official Code of Georgia Annotated

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10-1-590. Short title.

This article shall be known and may be cited as the “Buying Services Act of 1975.”

History

Ga. L. 1975, p. 529, § 1; Ga. L. 2015, p. 1088, § 6/SB 148.

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10-1-591. Definitions.

As used in this article, the term:

- (1) “Attorney General” means the Attorney General or his or her designee.
- (2) “Business day” means any day other than a Saturday, Sunday, or legal holiday.
- (3) “Buying service,” “buying club,” or “club” means any corporation, partnership, unincorporated association, or other business enterprise which is organized with the primary purpose of providing benefits to members from the cooperative purchase of service or merchandise and which desires to effect such purpose through direct solicitation or other business activity in this state.
- (4) “Contract” means any contract or agreement by which a person becomes a member of a buying service or club.
- (5) “Member” means any natural person who is entitled to any of the benefits of a buying service or buying club.

History

Ga. L. 1975, p. 529, § 2; Ga. L. 1979, p. 643, § 1; Ga. L. 1982, p. 1073, §§ 1, 3; Ga. L. 2015, p. 1088, § 6/SB 148.

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10-1-592. Buying services and clubs to obtain licenses.

No buying service or club nor any officer, official, employee, or agent thereof shall sell, advertise, or solicit the sale or purchase of memberships or contracts within this state without having first obtained a license to do business in this state from the Attorney General.

History

Ga. L. 1975, p. 529, § 3; Ga. L. 1982, p. 1073, §§ 2, 4; Ga. L. 2015, p. 1088, § 6/SB 148.

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10-1-593. Conditions of licensure; bonds.

As a condition to the issuance or retention of a license required by this article, each buying service or club shall:

- (1) Comply with such reasonable conditions for the issuance of a license as may be required by the Attorney General pursuant to this article;
- (2) Maintain a bond in the amount of \$25,000.00 with a surety company duly authorized to do business in this state or post a cash bond in such amount, payable to the Governor; in either case, such bond shall be for the use and benefit of any person who has entered into a contract for membership in a buying service or club. Such bond shall be conditioned to pay all losses, damages, and expenses that may be sustained by such member by reason of any fraudulent misrepresentation or by reason of any breach of contract by the club; and
- (3) Furnish, if the buying service or club operates buying service activities at more than one physical location in this state, a surety bond for each location of buying service activity, each bond to be in the amount and subject to the conditions stated in paragraph (2) of this Code section.

History

Ga. L. 1975, p. 529, § 4; Ga. L. 1979, p. 643, § 2; Ga. L. 1982, p. 1073, §§ 2, 4; Ga. L. 1984, p. 22, § 10; Ga. L. 2015, p. 1088, § 6/SB 148; Ga. L. 2017, p. 774, § 10/HB 323.

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10-1-594. Application for license; renewal; fee.

- (a) Application for a license as a buying service or club shall be made on forms prescribed by the Attorney General and shall contain such information and supporting documents as he may require.
- (b) Licenses shall be issued for a period of one year and shall be renewable within 90 days preceding the expiration thereof.
- (c) The fee for a license or for the renewal thereof shall be \$50.00, payable to the Attorney General for deposit by the Office of the State Treasurer in the general fund of the state.

History

Ga. L. 1975, p. 529, § 5; Ga. L. 1982, p. 1073, §§ 2, 4; Ga. L. 1993, p. 1402, § 18; Ga. L. 2010, p. 863, § 2/SB 296; Ga. L. 2015, p. 1088, § 6/SB 148.

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10-1-595. Revocation, suspension, and nonrenewal of licenses; grounds; notice and hearing.

(a) Licenses issued under this article may be revoked, suspended, or not renewed by the Attorney General for:

- (1) Any violation of the substantive provisions of this article;
- (2) A violation of any rule or regulation issued by the Attorney General pursuant to this article; or
- (3) A violation of any law of this state.

(b) Licenses shall be revoked or suspended by the Attorney General only following notice and hearing pursuant to Chapter 13 of Title 50, the “Georgia Administrative Procedure Act.”

History

Ga. L. 1975, p. 529, § 6; Ga. L. 1982, p. 1073, §§ 2, 4; Ga. L. 2015, p. 1088, § 6/SB 148.

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10-1-596. Contracts of membership; approval of form by Attorney General; effect of noncompliance.

No contract of membership shall be used by any buying service or club unless such contract is first approved by the Attorney General as to form. Any contract or agreement used in violation of this Code section shall be null, void, and of no effect.

History

Ga. L. 1975, p. 529, § 7; Ga. L. 1982, p. 1073, §§ 2, 4; Ga. L. 2015, p. 1088, § 6/SB 148.

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10-1-597. Contracts of membership; right of cancellation; how exercised; entitlement to refund; right not waivable.

- (a) Any person who has elected to become a member of a club may cancel such membership by giving written notice of cancellation any time before 12:00 Midnight of the third business day following the date on which membership was attained.
- (b) Notice of cancellation may be given personally or by mail. If given by mail, the notice is effective upon deposit in a mailbox, properly addressed and postage prepaid. Notice of cancellation need not take a particular form and is sufficient if it indicates, by any form of written expression, the intention of the member not to be bound by the contract.
- (c) Cancellation shall be without liability on the part of the member. The member will be entitled to a total refund, within ten days after notice of cancellation is given, of the entire consideration paid for the contract.
- (d) Rights of cancellation may not be waived or otherwise surrendered.

History

Ga. L. 1975, p. 529, § 8; Ga. L. 2015, p. 1088, § 6/SB 148.

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10-1-598. Contracts of membership; requirements; notice; effect of noncompliance.

- (a) A copy of every contract shall be delivered to the member at the time the contract is signed.
- (b) Every contract must be in writing, must be signed by the member, must designate the date on which the member signed the contract, and must state, clearly and conspicuously in boldface type of a minimum size of 14 points, the following:

“MEMBER’S RIGHT TO CANCEL

If you wish to cancel this contract, you may cancel by delivering or mailing a written notice to the club. To prove that you canceled, it is recommended that you send the notice by certified mail or statutory overnight delivery. The notice must say that you do not wish to be bound by the contract and must be delivered or mailed before 12:00 Midnight of the third business day after you sign this contract. The notice must be delivered or mailed to: _____ (insert name and mailing address of club) _____. If you cancel, the club will return, within ten days of the date on which you give notice of cancellation, a total refund. It is recommended that you mail the notice of cancellation by certified mail or statutory overnight delivery, return receipt requested; check with your post office as to the time when you will be able to mail a certified letter. Be sure to keep a photocopy of the notice of cancellation which you mail.”

- (c) Every contract which does not contain the notice specified in subsection (b) of this Code section may be canceled by the member at any time, without liability, by giving notice of cancellation by any means. Nothing contained in this Code section shall be construed to require that a member’s cancellation notice be sent by certified mail or statutory overnight delivery in order to effect a cancellation.

History

Ga. L. 1975, p. 529, § 9; Ga. L. 1983, p. 3, § 8; Ga. L. 1987, p. 1347, § 1; Ga. L. 2000, p. 1589, § 3; Ga. L. 2015, p. 1088, § 6/SB 148.

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10-1-599. Contracts of membership; authorized duration; notice thereof.

No contract shall be valid for a term longer than 18 months from the date upon which the contract is signed. However, a club may allow a member to convert his or her contract into a contract for a period longer than 18 months after the member has been a member of the club for a period of at least six months. The duration of the contract shall be clearly and conspicuously disclosed in the contract in boldface type of a minimum size of 14 points.

History

Ga. L. 1975, p. 529, § 10; Ga. L. 1984, p. 22, § 10; Ga. L. 2015, p. 1088, § 6/SB 148.

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10-1-600. Records to be kept; inspection thereof.

- (a) Each buying service or club licensed in this state shall keep and maintain:
 - (1) Accurate accounts, books, and records of all transactions in this state;
 - (2) Copies of all agreements;
 - (3) Dates and amounts of payments made and accepted thereon; and
 - (4) The names and addresses of all members in this state.
- (b) Such accounts, books, and records shall be open for inspection by the Attorney General during normal business hours on all normal business days.

History

Ga. L. 1975, p. 529, § 11; Ga. L. 1982, p. 1073, §§ 2, 4; Ga. L. 2015, p. 1088, § 6/SB 148.

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10-1-601. Rules, regulations, and orders.

The Attorney General is authorized to promulgate, adopt, and issue rules, regulations, and orders necessary or convenient to carry out the provisions and purposes of this article. Chapter 13 of Title 50, the “Georgia Administrative Procedure Act,” shall apply to the promulgation of rules and regulations by the Attorney General pursuant to this Code section.

History

Ga. L. 1975, p. 529, § 13; Ga. L. 1982, p. 1073, §§ 2, 4; Ga. L. 2015, p. 1088, § 6/SB 148.

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10-1-602. Application of “Georgia Administrative Procedure Act” and “Fair Business Practices Act of 1975.”

Chapter 13 of Title 50, the “Georgia Administrative Procedure Act,” shall apply to all actions and proceedings of an administrative nature taken by the Attorney General pursuant to this article, except where the Attorney General is acting under Part 2 of Article 15 of this chapter, the “Fair Business Practices Act of 1975.” A violation of this article shall also be considered a violation of Part 2 of Article 15 of this chapter, the “Fair Business Practices Act of 1975.”

History

Ga. L. 1975, p. 529, § 14; Ga. L. 1982, p. 1073, §§ 2, 4; Ga. L. 1987, p. 1347, § 2; Ga. L. 2015, p. 1088, § 6/SB 148.

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10-1-603. Injunctions.

In addition to any other proceedings authorized by this article, the Attorney General may bring a civil action in the superior courts to enjoin any violation or threatened violation of any provision of this article or any rule, regulation, or order issued or enforced by the Attorney General pursuant to this article.

History

Ga. L. 1975, p. 529, § 12; Ga. L. 1982, p. 1073, §§ 2, 4; Ga. L. 2015, p. 1088, § 6/SB 148.

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10-1-604. Civil penalty for violation; administrative hearing and review; judicial review; judgment on final order; remedy concurrent, alternative, and cumulative.

(a) In order to enforce this article or any orders, rules, and regulations promulgated pursuant thereto, the Attorney General may issue an administrative order imposing a penalty not to exceed \$1,000.00 for each violation, whenever he or she determines, after a hearing, that any person has violated any provisions of this article or any rules, regulations, or orders promulgated under this article.

(b) The hearing and any administrative review thereof shall be conducted in accordance with the procedure for contested cases under Chapter 13 of Title 50, the “Georgia Administrative Procedure Act.” Any person who has exhausted all administrative remedies available and who is aggrieved or adversely affected by a final order or action of the Attorney General shall have the right of judicial review thereof in accordance with Chapter 13 of Title 50, the “Georgia Administrative Procedure Act.” All penalties recovered as provided in this Code section shall be paid into the state treasury.

(c) The Attorney General may file, in the superior court of the county in which the person under an order resides, or if the person is a corporation, in the superior court of the county in which the corporation under an order maintains its principal place of business, or in the superior court of the county in which the violation occurred, a certified copy of the final order of the Attorney General unappealed from or of a final order of the Attorney General affirmed upon appeal. Thereupon, the court shall render judgment in accordance therewith and shall notify the parties. Such judgment shall have the same effect and proceedings in relation thereto shall thereafter be the same as though the judgment had been rendered in an action duly heard and determined by such court.

(d) The penalty prescribed in this Code section shall be concurrent, alternative, and cumulative with any and all other civil, criminal, or alternative rights, remedies, forfeitures, or penalties provided, allowed, or available to the Attorney General with respect to any violation of this article and any order, rules, or regulations promulgated pursuant thereto.

History

Ga. L. 1979, p. 643, § 3; Ga. L. 1982, p. 1073, §§ 2, 4; Ga. L. 1984, p. 22, § 10; Ga. L. 2015, p. 1088, § 6/SB 148.

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10-1-605. Penalty.

Any person, firm, corporation, organization, partnership, entity, buying club, or buying service violating any provision of this article shall be guilty of a misdemeanor.

History

Ga. L. 1975, p. 529, § 15; Ga. L. 2015, p. 1088, § 6/SB 148.

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10-1-606. Continuing validity of previously adopted rules, orders, actions, and regulations.

Rules, orders, actions, and regulations previously adopted which relate to functions performed by the administrator appointed pursuant to the Fair Business Practices Act of 1975 which were transferred under this article to the Attorney General shall remain of full force and effect as rules, orders, actions, and regulations of the Attorney General until amended, repealed, or superseded by rules or regulations adopted by the Attorney General.

History

Code 1981, § 10-1-606, enacted by Ga. L. 2015, p. 1088, § 6/SB 148.

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