O.C.G.A. Title 10, Ch. 1, Art. 15, Pt. 2

Current through the 2026 Regular and Special Sessions 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 — 38) > Article 15 Deceptive or Unfair Practices (Pts. 1 — 9) > PART 2 Fair Business Practices Act (§§ 10-1-390 — 10-1-408)

PART 2 Fair Business Practices Act

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O.C.G.A. § 10-1-390

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Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 1 Selling and Other Trade Practices (Arts. 1 — 38) > Article 15 Deceptive or Unfair Practices (Pts. 1 — 9) > PART 2 Fair Business Practices Act (§§ 10-1-390 — 10-1-408)

10-1-390. Short title.

This part shall be known and may be cited as the “Fair Business Practices Act of 1975.”

History

Ga. L. 1975, p. 376, § 1; *Ga. L. 2015, p. 1088, § 2/SB 148*.

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Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 1 Selling and Other Trade Practices (Arts. 1 — 38) > Article 15 Deceptive or Unfair Practices (Pts. 1 — 9) > PART 2 Fair Business Practices Act (§§ 10-1-390 — 10-1-408)

10-1-391. Purpose and construction of part.

(a) The purpose of this part shall be to protect consumers and legitimate business enterprises from unfair or deceptive practices in the conduct of any trade or commerce in part or wholly in the state. It is the intent of the General Assembly that such practices be swiftly stopped, and this part shall be liberally construed and applied to promote its underlying purposes and policies.

(b) It is the intent of the General Assembly that this part be interpreted and construed consistently with interpretations given by the Federal Trade Commission in the federal courts pursuant to Section 5(a)(1) of the Federal Trade Commission Act (*15 U.S.C. Section 45(a)(1)*), as from time to time amended.

History

Ga. L. 1975, p. 376, § 1; *Ga. L. 2015, p. 1088, § 2/SB 148*.

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O.C.G.A. § 10-1-392

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Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 1 Selling and Other Trade Practices (Arts. 1 — 38) > Article 15 Deceptive or Unfair Practices (Pts. 1 — 9) > PART 2 Fair Business Practices Act (§§ 10-1-390 — 10-1-408)

10-1-392. Definitions; when intentional violation occurs.

(a) As used in this part, the term:

(1) "Attorney General" means the Attorney General or his or her designee.

(2) "Campground membership" means any arrangement under which a purchaser has the right to use, occupy, or enjoy a campground membership facility.

(3) "Campground membership facility" means any campground facility at which the use, occupation, or enjoyment of the facility is primarily limited to those purchasers, along with their guests, who have purchased a right to make reservations at future times to use the facility or who have purchased the right periodically to use the facility at fixed times or intervals in the future, but shall not include any such arrangement which is regulated under Article 5 of Chapter 3 of Title 44.

(4) "Career consulting firm" means any person providing services to an individual in conjunction with a career search and consulting program for the individual, including, but not limited to, counseling as to the individual's career potential, counseling as to interview techniques, and the identification of prospective employers. A "career consulting firm" shall not guarantee actual job placement as one of its services. A "career consulting firm" shall not include any person who provides these services without charging a fee to applicants for those services or any employment agent or agency regulated under Chapter 10 of Title 34.

(5) "Child support enforcement" means the action, conduct, or practice of enforcing a child support order issued by a court or other tribunal.

(6) "Consumer" means a natural person.

(7) "Consumer acts or practices" means acts or practices intended to encourage consumer transactions.

(8) "Consumer report" means any written or other communication of any information by a consumer reporting agency bearing on a consumer's creditworthiness, credit standing, or credit capacity which is used or intended to be used or collected in whole or in part for the purpose of serving as a factor in establishing the consumer's eligibility for:

(A) Credit or insurance to be used primarily for personal, family, or household purposes; or

(B) Employment consideration.

(9) "Consumer reporting agency" or "agency" means any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties.

(10) "Consumer transactions" means the sale, purchase, lease, or rental of goods, services, or property, real or personal, primarily for personal, family, or household purposes.

(11) "Department" means the Department of Human Services.

(12) “Documentary material” means the original or a copy, whether printed, filmed, or otherwise preserved or reproduced, by whatever process, including electronic data storage and retrieval systems, of any book, record, report, memorandum, paper, communication, tabulation, map, chart, photograph, mechanical transcription, or other tangible document or record wherever situate.

(13) “Examination” of documentary material means inspection, study, or copying of any such material and the taking of testimony under oath or acknowledgment with respect to any such documentary material.

(14) “File” means, when used in connection with information on any consumer, all of the information on that consumer recorded or retained by a consumer reporting agency regardless of how the information is stored.

(14.1) “Food” means articles used for food or drink for human consumption, chewing gum, and articles used for components of any such article.

(15) “Going-out-of-business sale” means any offer to sell to the public or sale to the public of goods, wares, or merchandise on the implied or direct representation that such sale is in anticipation of the termination of a business at its present location or that the sale is being held other than in the ordinary course of business and includes, without being limited to, any sale advertised either specifically or in substance to be a sale because the person is going out of business, liquidating, selling his or her entire stock or 50 percent or more of his or her stock, selling out to the bare walls, selling because the person has lost his or her lease, selling out his or her interest in the business, or selling because everything in the business must be sold or that the sale is a trustee’s sale, bankruptcy sale, save us from bankruptcy sale, insolvency sale, assignee’s sale, must vacate sale, quitting business sale, receiver’s sale, loss of lease sale, forced out of business sale, removal sale, liquidation sale, executor’s sale, administrator’s sale, warehouse removal sale, branch store discontinuance sale, creditor’s sale, adjustment sale, or defunct business sale.

(16) “Health spa” means an establishment which provides, as one of its primary purposes, services or facilities which are purported to assist patrons to improve their physical condition or appearance through change in weight, weight control, treatment, dieting, or exercise. The term includes an establishment designated as a “reducing salon,” “health spa,” “spa,” “exercise gym,” “health studio,” “health club,” or by other terms of similar import. A health spa shall not include any of the following:

(A) Any nonprofit organization;

(B) Any facility wholly owned and operated by a licensed physician or physicians at which such physician or physicians are engaged in the actual practice of medicine; or

(C) Any such establishment operated by a health care facility, hospital, intermediate care facility, or skilled nursing care facility.

(16.1) “Kosher food disclosure statement” means a statement which:

(A) Discloses to consumers practices relating to the preparation, handling, and sale of any unpackaged food, or food packaged at the premises where it is sold to consumers, if the food is represented to be kosher, kosher for Passover, or prepared or maintained under rabbinical or other kosher supervision; and

(B) Complies with the provisions of subsections (b) through (e) of *Code Section 10-1-393.11*.

(17) “Marine membership” means any arrangement under which a purchaser has a right to use, occupy, or enjoy a marine membership facility.

(18) “Marine membership facility” means any boat, houseboat, yacht, ship, or other floating facility upon which the use, occupation, or enjoyment of the facility is primarily limited to those purchasers, along with their guests, who have purchased a right to make reservations at future times to use the facility or who have purchased a right to use periodically, occupy, or enjoy the facility at fixed times or

intervals in the future, but shall not include any such arrangement which is regulated under Article 5 of Chapter 3 of Title 44.

(19) “Obligee” means a resident of this state who is identified in an order for child support issued by a court or other tribunal as the payee to whom an obligor owes child support.

(20) “Obligor” means a resident of this state who is identified in an order for child support issued by a court or other tribunal as required to make child support payments.

(21) “Office” means any place where business is transacted, where any service is supplied by any person, or where any farm is operated.

(22) “Office supplier” means any person who sells, rents, leases, or ships, or offers to sell, lease, rent, or ship, goods, services, or property to any person to be used in the operation of any office or of any farm.

(23) “Office supply transactions” means the sale, lease, rental, or shipment of, or offer to sell, lease, rent, or ship, goods, services, or property to any person to be used in the operation of any office or of any farm but shall not include transactions in which the goods, services, or property is purchased, leased, or rented by the office or farm for purposes of reselling them to other persons.

(24) “Person” means a natural person, corporation, trust, partnership, incorporated or unincorporated association, or any other legal entity.

(24.1) “Presealed kosher food package” means a food package which bears a kosher symbol insignia and is sealed by the manufacturer, processor, or wholesaler at premises other than the premises where the food is to be sold to the public.

(25) “Private child support collector” means an individual or nongovernmental entity that solicits and contracts directly with obligees to provide child support collection services for a fee or other compensation but shall not include attorneys licensed to practice law in this state unless such attorney is employed by a private child support collector.

(26) “Prize” means a gift, award, or other item intended to be distributed or actually distributed in a promotion.

(27) “Promotion” means any scheme or procedure for the promotion of consumer transactions whereby one or more prizes are distributed among persons who are required to be present at the place of business or are required to participate in a seminar, sales presentation, or any other presentation, by whatever name denominated, in order to receive the prize or to determine which, if any, prize they will receive. Promotions shall not include any procedure where the receipt of the prize is conditioned upon the purchase of the item which the seller is trying to promote if such condition is clearly and conspicuously disclosed in the promotional advertising and literature and the receipt of the prize does not involve an element of chance. Any procedure where the receipt of the prize is conditioned upon the purchase of the item which the seller is trying to promote or upon the payment of money and where the receipt of that prize involves an element of chance shall be deemed to be a lottery under *Code Section 16-12-20*; provided, however, that nothing in this definition shall be construed to include a lottery operated by the State of Georgia or the Georgia Lottery Corporation as authorized by law; provided, further, that any deposit made in connection with an activity described by subparagraph (b)(22)(B) of *Code Section 10-1-393* shall not constitute the payment of money.

(27.1) “Representation regarding kosher food” means any direct or indirect statement, whether oral or written, including but not limited to an advertisement, sign, or menu and any letter, word, sign, emblem, insignia, or mark which could reasonably lead a consumer to believe that a representation is being made that the final food product sold to the consumer is kosher, kosher for Passover, or prepared or maintained under rabbinical or other kosher supervision.

(28) “Trade” and “commerce” mean the advertising, distribution, sale, lease, or offering for distribution, sale, or lease of any goods, services, or any property, tangible or intangible, real, personal, or mixed, or

any other article, commodity, or thing of value wherever situate and shall include any trade or commerce directly or indirectly affecting the people of this state.

(b) An "intentional violation" occurs when the person committing the act or practice knew that his or her conduct was in violation of this part. Maintenance of an act or practice specifically designated as unlawful in subsection (b) of *Code Section 10-1-393* after the Attorney General gives notice that the act or practice is in violation of the part shall be prima-facie evidence of intentional violation. For the purposes of this subsection, the Attorney General gives notice that an act or practice is in violation of this part by the adoption of specific rules promulgated pursuant to subsection (a) of *Code Section 10-1-394* and by notice in writing to the alleged violator of a violation, if such written notice may be reasonably given without substantially or materially altering the purposes of this part; provided, however, that no presumption of intention shall arise in the case of an alleged violator who maintains a place of business within the jurisdiction of this state with sufficient assets to respond to a judgment under this part, unless such alleged violator has received written notice. The burden of showing no reasonable opportunity to give written notice shall be upon the Attorney General.

History

Ga. L. 1975, p. 376, § 2; Ga. L. 1978, p. 2001, § 1; Ga. L. 1982, p. 1689, §§ 1, 2A, 3; Ga. L. 1984, p. 22, § 10; Ga. L. 1985, p. 938, § 1; Ga. L. 1986, p. 405, § 1; Ga. L. 1986, p. 1046, § 1; Ga. L. 1986, p. 1313, § 1; Ga. L. 1987, p. 794, § 1; Ga. L. 1987, p. 1386, § 1; Ga. L. 1988, p. 13, § 10; Ga. L. 1989, p. 560, § 1; Ga. L. 1996, p. 1030, § 1; Ga. L. 1997, p. 143, § 10; Ga. L. 2001, p. 1245, § 1; *Ga. L. 2009, p. 1001, § 2/HB 189*; *Ga. L. 2010, p. 114, § 3/HB 1345*; *Ga. L. 2015, p. 1088, § 2/SB 148*.

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Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 1 Selling and Other Trade Practices (Arts. 1 — 38) > Article 15 Deceptive or Unfair Practices (Pts. 1 — 9) > PART 2 Fair Business Practices Act (§§ 10-1-390 — 10-1-408)

10-1-393. Unfair or deceptive practices in consumer transactions unlawful; examples.

(a) Unfair or deceptive acts or practices in the conduct of consumer transactions and consumer acts or practices in trade or commerce are declared unlawful.

(b) By way of illustration only and without limiting the scope of subsection (a) of this Code section, the following practices are declared unlawful:

(1) Passing off goods or services as those of another;

(2) Causing actual confusion or actual misunderstanding as to the source, sponsorship, approval, or certification of goods or services;

(3) Causing actual confusion or actual misunderstanding as to affiliation, connection, or association with or certification by another;

(4)

(A) Using deceptive representations or designations of geographic origin in connection with goods or services. Without limiting the generality of the foregoing, it is specifically declared to be unlawful:

(i) For any nonlocal business to cause to be listed in any local telephone directory a local telephone number for the business if calls to the local telephone number are routinely forwarded or otherwise transferred to the nonlocal business location that is outside the calling area covered by such local telephone directory or to a toll-free number which does not have a local address and the listing fails to state clearly the principal place of business of the nonlocal business;

(ii) For any person operating a business to cause to be listed in any local telephone directory a toll-free number for the business if the listing fails to state clearly the principal place of business of such business; or

(iii) For any person to use an assumed or fictitious name in the conduct of such person's business, if the use of such name could reasonably be construed to be a misrepresentation of the geographic origin or location of such person's business.

(B) For purposes of this paragraph, the term:

(i) "Local" or "local area" means the area in which any particular telephone directory is distributed or otherwise provided free of charge to some or all telecommunications services subscribers.

(ii) "Local telephone directory" means any telecommunications services directory, directory assistance data base, or other directory listing which is distributed or otherwise provided free of charge to some or all telecommunications services subscribers in any area of this state and includes such directories distributed by telecommunications companies as well as such directories distributed by other parties.

(iii) "Local telephone number" means any telecommunications services number which is not clearly identifiable as a long-distance telecommunications services number and which has a three-number prefix typically used by the local telecommunications company for telecommunications services devices physically located within the local area.

(iv) "Nonlocal business" means any business which does not have within the local area a physical place of business providing the goods or services which are the subject of the advertisement or listing in question.

(v) "Telecommunications company" shall have the same meaning as provided in *Code Section 46-5-162*.

(vi) "Telecommunications services" shall have the same meaning as provided in *Code Section 46-5-162*.

(vii) "Telecommunications services subscriber" means a person or entity to whom telecommunications services, either residential or commercial, are provided;

(5) Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities that they do not have or that a person has a sponsorship, approval, status, affiliation, or connection that he or she does not have;

(6) Representing that goods are original or new if they are deteriorated, reconditioned, reclaimed, used, or secondhand;

(7) Representing that goods or services are of a particular standard, quality, or grade or that goods are of a particular style or model, if they are of another;

(8) Disparaging goods, services, or business of another by false or misleading representation;

(9) Advertising goods or services with intent not to sell them as advertised;

(10) Advertising goods or services with intent not to supply reasonably expectable public demand, unless the advertisement discloses a limitation of quantity;

(11) Making false or misleading statements concerning the reasons for, existence of, or amounts of price reductions;

(12) Failing to comply with the provisions of *Code Section 10-1-393.2* concerning health spas;

(13) Failure to comply with the following provisions concerning career consulting firms:

(A) A written contract shall be employed which shall constitute the entire agreement between the parties, a fully completed copy of which shall be furnished to the consumer at the time of its execution which shows the date of the transaction and the name and address of the career consulting firm;

(B) The contract or an attachment thereto shall contain a statement in boldface type which complies substantially with the following:

"The provisions of this agreement have been fully explained to me and I understand that the services to be provided under this agreement by the seller do not include actual job placement."

The statement shall be signed by both the consumer and the authorized representative of the seller;

(C) Any advertising offering the services of a career consulting firm shall contain a statement which contains the following language: "A career consulting firm does not guarantee actual job placement as one of its services.";

(14) Failure of a hospital or long-term care facility to deliver to an inpatient who has been discharged or to his or her legal representative, not later than six business days after the date of such discharge, an itemized statement of all charges for which the patient or third-party payor is being billed;

(15) Any violation of *49 U.S.C. Sections 32702* through *32704* and any violation of regulations prescribed under *49 U.S.C. Section 32705*. Notwithstanding anything in this part to the contrary, all such actions in violation of such federal statutes or regulations shall be consumer transactions and consumer acts or practices in trade or commerce;

(16) Failure to comply with the following provisions concerning promotions:

(A) For purposes of this paragraph, the term:

(i) "Conspicuously," when referring to type size, means either a larger or bolder type than the adjacent and surrounding material.

(ii) "In conjunction with and in immediate proximity to," when referring to a listing of verifiable retail value and odds for each prize, means that such value and odds must be adjacent to that particular prize with no other printed or pictorial matter between the value and odds and that listed prize.

(iii) "Notice" means a communication of the disclosures required by this paragraph to be given to a consumer that has been selected, or has purportedly been selected, to participate in a promotion. If the original notice is in writing, it shall include all of the disclosures required by this paragraph. If the original notice is oral, it shall include all of the disclosures required by this paragraph and shall be followed by a written notice to the consumer of the same disclosures. In all cases, written notice shall be received by the consumer before any agreement or other arrangement is entered into which obligates the consumer in any manner.

(iv) "Participant" means a person who is offered an opportunity to participate in a promotion.

(v) "Promoter" means the person conducting the promotion.

(vi) "Sponsor" means the person on whose behalf the promotion is conducted in order to promote or advertise the goods, services, or property of that person.

(vii) "Verifiable retail value," when referring to a prize, means:

(I) The price at which the promoter or sponsor can substantiate that a substantial number of those prizes have been sold at retail by someone other than the promoter or sponsor; or

(II) In the event that substantiation as described in subdivision (I) of this division is not readily available to the promoter or sponsor, no more than three times the amount which the promoter or sponsor has actually paid for the prize;

(A.1) Persons who are offered an opportunity to participate in a promotion must be given a notice as required by this paragraph. The written notice must be given to the participant either prior to the person's traveling to the place of business or, if no travel by the participant is necessary, prior to any seminar, sales presentation, or other presentation, by whatever name denominated. Written notices may be delivered by hand, by mail, by newspaper, by periodical, or by electronic mail or any other form of electronic, digital, or internet based communication. Any offer to participate made through any other medium must be preceded by or followed by the required notice at the required time. It is the intent of this paragraph that full, clear, and meaningful disclosure shall be made to the participant in a manner such that the participant can fully study and understand the disclosure prior to deciding whether to travel to the place of participation or whether to allow a presentation to be made in the participant's home; and that this paragraph be liberally construed to effect this purpose. The notice requirements of this paragraph shall be applicable to any promotion offer made by any person in the State of Georgia or any promotion offer made to any person in the State of Georgia;

(B) The promotion must be an advertising and promotional undertaking, in good faith, solely for the purpose of advertising the goods, services, or property, real or personal, of the sponsor. The notice shall contain the name and address of the promoter and of the sponsor, as applicable. The promoter and the sponsor may be held liable for any failure to comply with the provisions of this paragraph;

(C) A promotion shall be a violation of this paragraph if a person is required to pay any money including, but not limited to, payments for service fees, mailing fees, or handling fees payable to the sponsor or seller or furnish any consideration for the prize, other than the consideration of traveling to the place of business or to the presentation or of allowing the presentation to be made in the participant's home, in order to receive any prize; provided, however, that the payment of any deposit made in connection with an activity described in subparagraph (B) of paragraph (22) of this subsection shall not constitute a requirement to pay any money under this subparagraph;

(D) Each notice must state the verifiable retail value of each prize which the participant has a chance of receiving. Each notice must state the odds of the participant's receiving each prize if there is an element of chance involved. The odds must be clearly identified as "odds." Odds must be stated as the total number of that particular prize which will be given and of the total number of notices. The total number of notices shall include all notices in which that prize may be given, regardless of whether it includes notices for other sponsors. If the odds of winning a particular prize would not be accurately stated on the basis of the number of notices, then the odds may be stated in another manner, but must be clearly stated in a manner which will not deceive or mislead the participant regarding the participant's chance of receiving the prize. The verifiable retail value and odds for each prize must be stated in conjunction and in immediate proximity with each listing of the prize in each place where it appears on the written notice and must be listed in the same size type and same boldness as the prize. Odds and verifiable retail values may not be listed in any manner which requires the participant to refer from one place in the written notice to another place in the written notice to determine the odds and verifiable retail value of the particular prize. Verifiable retail values shall be stated in Arabic numerals;

(E) Upon arriving at the place of business or upon allowing the sponsor to enter the participant's home, the participant must be immediately informed which, if any, prize the participant will receive prior to any seminar, sales presentation, or other presentation; and the prize, or any voucher, certificate, or other evidence of obligation in lieu of the prize, must be given to the participant at the time the participant is so informed;

(F) No participant shall be required or invited to view, hear, or attend any sales presentation, by whatever name denominated, unless such requirement or invitation has been conspicuously disclosed to the participant in the written notice in at least ten-point boldface type;

(G) Except in relation to an activity described in subparagraph (B) of paragraph (22) of this subsection, in no event shall any prize be offered or given which will require the participant to purchase additional goods or services, including shipping fees, handling fees, or any other charge by whatever name denominated, from any person in order to make the prize conform to what it reasonably appears to be in the mailing or delivery, unless such requirement and the additional cost to the participant is clearly disclosed in each place where the prize is listed in the written notice using a statement in the same size type and boldness as the prize listed;

(H) Any limitation on eligibility of participants must be clearly disclosed in the notice;

(I) Substitutes of prizes shall not be made. In the event the represented prize is unavailable, the participant shall be presented with a certificate which the sponsor shall honor within 30 days by shipping the prize, as represented in the notice, to the participant at no cost to the participant. In the event a certificate cannot be honored within 30 days, the sponsor shall mail to the participant a valid check or money order for the verifiable retail value which was represented in the notice;

(J) In the event the participant is presented with a voucher, certificate, or other evidence of obligation as the participant's prize, or in lieu of the participant's prize, it shall be the responsibility of the sponsor to honor the voucher, certificate, or other evidence of obligation, as represented in the notice, if the person who is named as being responsible for honoring the voucher, certificate, or other evidence of obligation fails to honor it as represented in the notice;

(K) The geographic area covered by the notice must be clearly stated. If any of the prizes may be awarded to persons outside of the listed geographical area or to participants in promotions for other sponsors, these facts must be clearly stated, with a corresponding explanation that every prize may not be given away by that particular sponsor. If prizes will not be awarded or given if the winning ticket, token, number, lot, or other device used to determine winners in that particular promotion is not presented to the promoter or sponsor, this fact must be clearly disclosed;

(L) Upon request of the Attorney General, the sponsor or promoter must within ten days furnish to the Attorney General the names, addresses, and telephone numbers of persons who have received any prize;

(M) A list of all winning tickets, tokens, numbers, lots, or other devices used to determine winners in promotions involving an element of chance must be prominently posted at the place of business or distributed to all participants if the seminar, sales presentation, or other presentation is made at a place other than the place of business. A copy of such list shall be furnished to each participant who so requests;

(N) Any promotion involving an element of chance which does not conform with the provisions of this paragraph shall be considered an unlawful lottery as defined in *Code Section 16-12-20*. Except as provided in *Code Section 16-12-35* and Article 3 of Chapter 27 of Title 50, any promotion involving an element of chance which involves the playing of a game on a computer, mechanical device, or electronic device at a place of business in this state shall be considered an unlawful lottery as defined in *Code Section 16-12-20* and shall not be permitted under this chapter. Any promotion involving the playing of a no-skill game on a computer, mechanical device, or electronic device at a place of business in this state shall be considered an unlawful lottery as defined in *Code Section 16-12-20*. The Attorney General may prosecute persons who promote and sponsor promotions which constitute an unlawful lottery or may seek and shall receive the assistance of the prosecuting attorneys of this state in the commencement and prosecution of such persons;

(N.1) All prizes offered and awarded shall be noncash prizes only and shall not be redeemable for cash;

(O) Any person who participates in a promotion and does not receive an item which conforms with what that person, exercising ordinary diligence, reasonably believed that person should have received based upon the representations made to that person may bring the private action provided for in *Code Section 10-1-399* and, if that person prevails, shall be awarded, in addition to any other recovery provided under this part, a sum which will allow that person to purchase an item at retail which reasonably conforms to the prize which that person, exercising ordinary diligence, reasonably believed that person would receive; and

(P) In addition to any other remedy provided under this part, where a contract is entered into while participating in a promotion which does not conform with this paragraph, the contract shall be voidable by the participant for ten business days following the date of the participant's receipt of the prize. In order to void the contract, the participant must notify the sponsor in writing within ten business days following the participant's receipt of the prize;

(17) Failure to furnish to the buyer of any campground membership or marine membership at the time of purchase a notice to the buyer allowing the buyer seven days to cancel the purchase. The notice shall be on a separate sheet of paper with no other written or pictorial material, in at least ten-point boldface type, double spaced, and shall read as follows:

Notice to the Buyer

10-1-393. Unfair or deceptive practices in consumer transactions unlawful; examples.

Please read this form completely and carefully. It contains valuable cancellation rights.

The buyer or buyers may cancel this transaction at any time prior to 5:00 P.M. of the seventh day following receipt of this notice.

This cancellation right cannot be waived in any manner by the buyer or buyers.

Any money paid by the buyer or buyers must be returned by the seller within 30 days of cancellation.

To cancel, sign this form, and mail by certified mail or statutory overnight delivery, return receipt requested, by 5:00 P.M. of the seventh day following the transaction. Be sure to keep a photocopy of the signed form and your post office receipt.

_____
Seller's Name

_____
Address to which cancellation is to be mailed

_____
I (we) hereby cancel this transaction.

_____
Buyer's Signature

_____
Buyer's Signature

_____
Date

_____
Printed Name(s) of Buyer(s)

_____
Street Address

_____
City, State, ZIP Code

(18) Failure of the seller of a campground membership or marine membership to fill in the seller's name and the address to which cancellation notices should be mailed on the form specified in paragraph (17) of this subsection;

(19) Failure of the seller of a campground membership or marine membership to cancel according to the terms specified in the form described in paragraph (17) of this subsection;

(20)

(A) Representing that moneys provided to or on behalf of a debtor, as defined in *Code Section 44-14-162.1* in connection with property used as a dwelling place by said debtor, are a loan if in fact they are used to purchase said property and any such misrepresentation upon which is based the execution of a quitclaim deed or warranty deed by that debtor shall authorize that debtor to bring an

action to reform such deed into a deed to secure debt in addition to any other right such debtor may have to cancel the deed pursuant to *Code Section 23-2-2*, *23-2-60*, or any other applicable provision of law.

(B) Advertising to assist debtors whose loan for property the debtors use as a dwelling place is in default with intent not to assist them as advertised or making false or misleading representations to such a debtor about assisting the debtor in connection with said property.

(C) Failing to comply with the following provisions in connection with the purchase of property used as a dwelling place by a debtor whose loan for said property is in default and who remains in possession of this property after said purchase:

(i) A written contract shall be employed by the buyer which shall summarize and incorporate the entire agreement between the parties, a fully completed copy of which shall be furnished to the debtor at the time of its execution. Said contract shall show the date of the transaction and the name and address of the parties; shall state, in plain and bold language, that the subject transaction is a sale; and shall indicate the amount of cash proceeds and the amount of any other financial benefits that the debtor will receive;

(ii) This contract shall contain a statement in boldface type which complies substantially with the following:

> "The provisions of this agreement have been fully explained to me. I understand that under this agreement I am selling my house to the other undersigned party."

This statement shall be signed by the debtor and the buyer;

(iii) If a lease or rental agreement is executed in connection with said sale, it shall set forth the amount of monthly rent and shall state, in plain and bold language, that the debtor may be evicted for failure to pay said rent. Should an option to purchase be included in this lease, it shall state, in plain and bold language, the conditions that must be fulfilled in order to exercise it; and

(iv) The buyer shall furnish to the seller at the time of closing a notice to the seller allowing the seller ten days to cancel the purchase. This right to cancel shall not limit or otherwise affect the seller's right to cancel pursuant to *Code Section 23-2-2*, *23-2-60*, or any other applicable provision of law. The notice shall serve as the cover sheet to the closing documents. It shall be on a separate sheet of paper with no other written or pictorial material, in at least ten-point boldface type, double spaced, and shall read as follows:

Notice to the Seller

Please read this form completely and carefully. It contains valuable cancellation rights.

The seller or sellers may cancel this transaction at any time prior to 5:00 P.M. of the tenth day following receipt of this notice.

This cancellation right cannot be waived in any manner by the seller or sellers.

Any money paid to the seller or sellers must be returned by the seller within 30 days of cancellation.

To cancel, sign this form, and return it to the buyer by 5:00 P.M. of the tenth day following the transaction. It is best to mail it by certified mail or statutory overnight delivery, return receipt requested, and to keep a photocopy of the signed form and your post office receipt.

_____

Buyer's name

_____
Address to which cancellation is to be returned.

_____
I (we) hereby cancel this transaction.

_____
Seller's Signature

_____
Seller's Signature

_____
Date

_____
Printed name(s) of seller(s)

_____
Street address

_____
City, State, ZIP Code

(D) The provisions of subparagraph (C) of this paragraph shall only apply where all three of the following conditions are present:

(i) A loan on the property used as a dwelling place is in default;

(ii) The debtor transfers the title to the property by quitclaim deed, limited warranty deed, or general warranty deed; and

(iii) The debtor remains in possession of the property under a lease or as a tenant at will;

(21) Advertising a telephone number the prefix of which is 976 and which when called automatically imposes a per-call charge or cost to the consumer, other than a regular charge imposed for long-distance telephone service, unless the advertisement contains the name, address, and telephone number of the person responsible for the advertisement and unless the person's telephone number and the per-call charge is printed in type of the same size as that of the number being advertised;

(22) Representing, in connection with a vacation, holiday, or an item described by terms of similar meaning, or implying that:

(A) A person is a winner, has been selected or approved, or is in any other manner involved in a select or special group for receipt of an opportunity or prize, or that a person is entering a contest, sweepstakes, drawing, or other competitive enterprise from which a winner or select group will receive an opportunity or prize, when in fact the enterprise is designed to make contact with prospective customers, or in which all or a substantial number of those entering such competitive enterprise receive the same prize or opportunity; or

(B) In connection with the types of representations referred to in subparagraph (A) of this paragraph, representing that a vacation, holiday, or an item described by other terms of similar meaning, is being offered, given, awarded, or otherwise distributed unless:

(i) The item represented includes all transportation, meals, and lodging;

(ii) The representation specifically describes any transportation, meals, or lodging which is not included; or

(iii) The representation discloses that a deposit is required to secure a reservation, if that is the case.

The provisions of this paragraph shall not apply where the party making the representations is in compliance with paragraph (16) of this subsection;

(23) Except in relation to an activity which is in compliance with paragraph (16) or (22) of this subsection, stating, in writing or by telephone, that a person has won, is the winner of, or will win or receive anything of value, unless the person will receive the prize without obligation;

(24)

(A) Conducting a going-out-of-business sale for more than 90 days.

(B) After the 90 day time limit in subparagraph (A) of this paragraph has expired, continuing to do business in any manner contrary to any representations which were made regarding the nature of the going-out-of-business sale.

(C) The prohibitions of this paragraph shall not extend to any of the following:

(i) Sales for the estate of a decedent by the personal representative or the personal representative's agent, according to law or by the provisions of the will;

(ii) Sales of property conveyed by security deed, deed of trust, mortgage, or judgment or ordered to be sold according to the deed, mortgage, judgment, or order;

(iii) Sales of all agricultural produce and livestock arising from the labor of the seller or other labor under the seller's control on or belonging to the seller's real or personal estate and not purchased or sold for speculation;

(iv) All sales under legal process;

(v) Sales by a pawnbroker or loan company which is selling or offering for sale unredeemed pledges of chattels as provided by law; or

(vi) Sales of automobiles by an auctioneer licensed under the laws of the State of Georgia;

(25) The issuance of a check or draft by a lender in connection with a real estate transaction in violation of *Code Section 44-14-13*;

(26) With respect to any individual or facility providing personal care services or assisted living care:

(A) Any person or entity not duly licensed or registered as a personal care home or assisted living community formally or informally offering, advertising to, or soliciting the public for residents or referrals; or

(B) Any personal care home, as defined in subsection (a) of *Code Section 31-7-12*, or any assisted living community, as defined in *Code Section 31-7-12.2*, offering, advertising, or soliciting the public to provide services:

(i) Which are outside the scope of personal care services or assisted living care, respectively; and

(ii) For which it has not been specifically authorized.

Nothing in this subparagraph prohibits advertising by a personal care home or assisted living community for services authorized by the Department of Community Health under a waiver or variance pursuant to subsection (b) of *Code Section 31-2-7*.

For purposes of this paragraph, “personal care” means protective care and watchful oversight of a resident who needs a watchful environment but who does not have an illness, injury, or disability which requires chronic or convalescent care including medical and nursing services, and “assisted living care” includes services provided for in *Code Section 31-7-12.2*. The provisions of this paragraph shall be enforced following consultation with the Department of Community Health which shall retain primary responsibility for issues relating to licensure of any individual or facility providing personal care services;

(27) Mailing any notice, notification, or similar statement to any consumer regarding winning or receiving any prize in a promotion, and the envelope or other enclosure for the notice fails to conspicuously identify on its face that the contents of the envelope or other enclosure is a commercial solicitation and, if there is an element of chance in winning a prize, the odds of winning as “odds”;

(28) Any violation of the rules and regulations promulgated by the Department of Driver Services pursuant to subsection (e) of *Code Section 40-5-83* which relates to the consumer transactions and business practices of DUI Alcohol or Drug Use Risk Reduction Programs, except that the Department of Driver Services shall retain primary jurisdiction over such complaints;

(29) With respect to any consumer reporting agency:

(A) Any person who knowingly and willfully obtains information relative to a consumer from a consumer reporting agency under false pretenses shall be guilty of a misdemeanor;

(B) Any officer or employee of a consumer reporting agency who knowingly and willfully provides information concerning an individual from the agency’s files to a person not authorized to receive that information shall be guilty of a misdemeanor; and

(C) Each consumer reporting agency which compiles and maintains files on consumers on a nation-wide basis shall furnish to any consumer who has provided appropriate verification of his or her identity two complete consumer reports per calendar year, upon request and without charge;

(29.1) With respect to any credit card issuer:

(A) A credit card issuer who mails an unsolicited offer or solicitation to apply for a credit card and who receives by mail a completed application in response to the solicitation which lists an address that is not substantially the same as the address on the solicitation may not issue a credit card based on that application until steps have been taken to verify the applicant’s valid address to the same extent required by regulations prescribed pursuant to subsection (l) of *31 U.S.C. Section 5318*. Any person who violates this paragraph commits an unlawful practice within the meaning of this Code section; and

(B) Notwithstanding subparagraph (A) of this paragraph, a credit card issuer, upon receiving an application, may issue a credit card to a consumer or commercial customer with whom it already has a business relationship provided the address to which the card is mailed is a valid address based upon information in the records of the credit card issuer or its affiliates;

(30) With respect to any individual or facility providing home health services:

(A) For any person or entity not duly licensed by the Department of Community Health as a home health agency to regularly hold itself out as a home health agency; or

(B) For any person or entity not duly licensed by the Department of Community Health as a home health agency to utilize the words “home health” or “home health services” in any manner including but not limited to advertisements, brochures, or letters. Unless otherwise prohibited by law, nothing in this subparagraph shall be construed to prohibit persons or entities from using the words “home health” or “home health services” in conjunction with the words “equipment,” “durable medical equipment,” “pharmacy,” “pharmaceutical services,” “prescription medications,” “infusion therapy,” or “supplies” in any manner including but not limited to advertisements, brochures, or letters. An

unlicensed person or entity may advertise under the category “home health services” in any advertising publication which divides its advertisements into categories, provided that:

(i) The advertisement is not placed in the category with the intent to mislead or deceive;

(ii) The use of the advertisement in the category is not part of an unfair or deceptive practice; and

(iii) The advertisement is not otherwise unfair, deceptive, or misleading.

For purposes of this paragraph, the term “home health agency” shall have the same definition as contained in *Code Section 31-7-150*, as now or hereafter amended. The provisions of this paragraph shall be enforced by the Attorney General;

(30.1) Failing to comply with the following provisions in connection with a contract for health care services between a physician and an insurer which offers a health benefit plan under which such physician provides health care services to enrollees:

(A) As used in this paragraph, the term:

(i) “Enrollee” means an individual who has elected to contract for or participate in a health benefit plan for that individual or for that individual and that individual’s eligible dependents and includes that enrollee’s eligible dependents.

(ii) “Health benefit plan” means any hospital or medical insurance policy or certificate, health care plan contract or certificate, qualified higher deductible health plan, health maintenance organization subscriber contract, any health benefit plan established pursuant to Article 1 of Chapter 18 of Title 45, or any managed care plan.

(iii) “Insurer” means a corporation or other entity which is licensed or otherwise authorized to offer a health benefit plan in this state.

(iv) “Patient” means a person who seeks or receives health care services under a health benefit plan.

(v) “Physician” means a person licensed to practice medicine under Article 2 of Chapter 34 of Title 43.

(B) Every contract between a physician and an insurer which offers a health benefit plan under which that physician provides health care services shall be in writing and shall state the obligations of the parties with respect to charges and fees for services covered under that plan when provided by that physician to enrollees under that plan. Neither the insurer which provides that plan nor the enrollee under that plan shall be liable for any amount which exceeds the obligations so established for such covered services.

(C) Neither the physician nor a representative thereof shall intentionally collect or attempt to collect from an enrollee any obligations with respect to charges and fees for which the enrollee is not liable and neither such physician nor a representative thereof may maintain any action at law against such enrollee to collect any such obligations.

(D) The provisions of this paragraph shall not apply to the amount of any deductible or copayment which is not covered by the health benefit plan.

(E) This paragraph shall apply to only such health benefit plan contracts issued, delivered, issued for delivery, or renewed in this state on or after July 2, 2001;

(31) With respect to telemarketing sales:

(A) For any seller or telemarketer to use any part of an electronic record to attempt to induce payment or attempt collection of any payment that the seller or telemarketer claims is due and owing to it pursuant to a telephone conversation or series of telephone conversations with a residential subscriber. Nothing in this paragraph shall be construed to:

(i) Prohibit the seller or telemarketer from introducing, as evidence in any court proceeding to attempt collection of any payment that the seller or telemarketer claims is due and owing to it pursuant to a telephone conversation or series of telephone conversations with a residential subscriber, an electronic record of the entirety of such telephone conversation or series of telephone conversations; or

(ii) Expand the permissible use of an electronic record made pursuant to *16 C.F.R. Part 310.3*(a)(3), the Federal Telemarketing Sales Rule.

(B) For purposes of this paragraph, the term:

(i) "Covered communication" shall have the same meaning as the term "telemarketing" in subsection (a) of *Code Section 10-1-393.5*.

(ii) "Electronic record" means any recording by electronic device of, in part or in its entirety, a telephone conversation or series of telephone conversations with a residential subscriber that is initiated by a seller or telemarketer in order to induce the purchase of goods, services, or property. This term shall include, without limitation, any subsequent telephone conversations in which the seller or telemarketer attempts to verify any alleged agreement in a previous conversation or previous conversations.

(iii) "Residential subscriber" means any person who has subscribed to residential phone service from a local exchange company or the other persons living or residing with such person.

(iv) "Seller or telemarketer" means any person or entity making a covered communication to a residential subscriber for the purpose of inducing the purchase of goods, services, or property by such subscriber. This term shall include, without limitation, any agent of the seller or telemarketer, whether for purposes of conducting calls to induce the purchase, for purposes of verifying any calls to induce the purchase, or for purposes of attempting to collect on any payment under the purchase;

(32) Selling, marketing, promoting, advertising, providing, or distributing any card or other purchasing mechanism or device that is not insurance or evidence of insurance coverage and that purports to offer or provide discounts or access to discounts on purchases of health care goods or services from providers of the same or making any representation or statement that purports to offer or provide discounts or access to discounts on purchases of health care goods or services from providers of the same, when:

(A) Such card or other purchasing mechanism or device does not contain a notice expressly and prominently providing in boldface type that such discounts are not insurance; or

(B) Such discounts or access to such discounts are not specifically authorized under a separate contract with a provider of health care goods or services to which such discounts are purported to be applicable;

(33)

(A) For any person, firm, partnership, association, or corporation to issue a gift certificate, store gift card, or general use gift card without:

(i) Including the terms of the gift certificate, store gift card, or general use gift card in the packaging which accompanies the certificate or card at the time of purchase, as well as making such terms available upon request; and

(ii) Conspicuously printing the expiration date, if applicable, on the certificate or card and conspicuously printing the amount of any dormancy or nonuse fees on:

(I) The certificate or card; or

(II) A sticker affixed to the certificate or card.

A gift certificate, store gift card, or general use gift card shall be valid in accordance with its terms in exchange for merchandise or services.

(B) As used in this paragraph, the term:

(i) "General use gift card" means a plastic card or other electronic payment device which is usable at multiple, unaffiliated merchants or service providers; is issued in an amount which amount may or may not be, at the option of the issuer, increased in value or reloaded if requested by the holder; is purchased or loaded on a prepaid basis by a consumer; and is honored upon presentation by merchants for goods or services.

(ii) "Gift certificate" means a written promise that is usable at a single merchant or an affiliated group of merchants that share the same name, mark, or logo; is issued in a specified amount and cannot be increased in value on the face thereof; is purchased on a prepaid basis by a consumer in exchange for payment; and is honored upon presentation for goods or services by such single merchant or affiliated group of merchants that share the same name, mark, or logo.

(iii) "Store gift card" means a plastic card or other electronic payment device which is usable at a single merchant or an affiliated group of merchants that share the same name, mark, or logo; is issued in a specified amount and may or may not be increased in value or reloaded; is purchased on a prepaid basis by a consumer in exchange for payment; and is honored upon presentation for goods or services by such single merchant or affiliated group of merchants that share the same name, mark, or logo;

(34) For any person, firm, partnership, business, association, or corporation to willfully and knowingly accept or use an individual taxpayer identification number issued by the Internal Revenue Service for fraudulent purposes and in violation of federal law;

(35) Failure to comply with the provisions of *Code Section 10-6A-9* or *10-6A-10* regarding brokerage engagements and options to enter into brokerage engagements;

(36)

(A) With respect to any contractor entering into a contract with a homeowner within one year of a natural disaster for the provision of services for the repair, replacement, or mitigation of damage of or to the homeowner's home caused by such disaster:

(i) Failing to substantially commence work on the contracted services within one year of the execution of such contract;

(ii) Completing all or a portion of the agreed upon services in a substandard manner;

(iii) Entering into a contract with the homeowner whereby the homeowner assigned insurance proceeds to the contractor;

(iv) Completing services in a manner inconsistent with the state minimum standard codes or accredited industry standards; or

(v) Failing to comply with subparagraph (B) of this paragraph.

(B) Any contractor entering into a contract with a homeowner within one year of a natural disaster for the provision of services for the repair, replacement, or mitigation of damage of or to the homeowner's home caused by such disaster shall:

(i) Accept the cancellation of the contract by the homeowner prior to midnight on the fifth business day after such homeowner has received written notice from the insurer that all or any part of the claim or contract related to the natural disaster is not a covered loss under the homeowner's insurance policy. Cancellation shall be evidenced by the homeowner giving written notice of cancellation to the contractor at the address stated in the contract. Notice of cancellation, if given by mail, shall be effective upon deposit into the United States mail, postage prepaid and properly addressed to the contractor. Notice of cancellation need not take

a particular form and shall be sufficient if it indicates, by any form of written expression, the intention of the homeowner not to be bound by the contract; and

(ii) Before entering a contract as provided in this subparagraph:

(I) Furnish the homeowner with a statement in boldface type of a minimum size of ten points in substantially the following form:

"You may cancel this contract at any time before midnight on the fifth business day after you have received written notification from your insurer that all or any part of the claim or contract is not a covered loss under the insurance policy. This right to cancel is in addition to any other rights of cancellation which may be found in state or federal law or regulation. See the attached notice of cancellation form for an explanation of this right"; and

(II) Furnish each homeowner with a fully completed form in duplicate, captioned "NOTICE OF CANCELLATION," which shall be attached to the contract but easily detachable, and which shall contain in boldface type of a minimum size of ten points the following statement:

"NOTICE OF CANCELLATION

If you are notified by your insurer that all or any part of the claim or contract is not a covered loss under the insurance policy, you may cancel the contract by mailing or delivering a signed and dated copy of this cancellation notice or any other written
notice to _____

(name of contractor)

at _____

(address of contractor's place of business)

at any time prior to midnight on the fifth business day after you have received such notice from your insurer.

I HEREBY CANCEL THIS TRANSACTION

_____

(date)

_____

(insured's signature)."

(C) Notwithstanding other provisions of law in this paragraph, if the contractor has performed any emergency services, acknowledged by the homeowner in writing to be necessary to prevent immediate damage to the premises, the contractor shall be entitled to collect the reasonable amount due for the emergency services at the time they are rendered. Any provision in a contract provided for in this paragraph that requires the payment of any fee for any services except emergency services shall not be enforceable against any homeowner who has canceled a contract under this paragraph.

(D) As used in this paragraph, the term "natural disaster" means a flood, tornado, hurricane, earthquake, or other occurrence for which a state of emergency is proclaimed by the Governor; and

(37) Failure to comply with the provisions of *Code Section 10-1-393.21*.

(c) A seller may not by contract, agreement, or otherwise limit the operation of this part notwithstanding any other provision of law.

(d)

(1) Notwithstanding any other provision of the law to the contrary, the names, addresses, telephone numbers, social security numbers, or any other information which could reasonably serve to identify any person making a complaint about unfair or deceptive acts or practices shall be confidential. However, the complaining party may consent to public release of his or her identity by giving such consent expressly, affirmatively, and directly to the Attorney General or the Attorney General's employees.

(2) Nothing contained in this subsection shall be construed:

(A) To prevent the Attorney General from disclosing the complainant's identity if the Attorney General believes that disclosure will aid in resolution of the complaint;

(B) To prohibit any valid discovery under the relevant discovery rules; or

(C) To prohibit the lawful subpoena of such information.

History

Ga. L. 1975, p. 376, § 3; Ga. L. 1978, p. 2001, § 2; Ga. L. 1982, p. 3, § 10; Ga. L. 1982, p. 1689, §§ 2, 4; Ga. L. 1983, p. 1298, § 1; Ga. L. 1984, p. 22, § 10; Ga. L. 1984, p. 463, § 1; Ga. L. 1985, p. 149, § 10; Ga. L. 1985, p. 938, § 2; Ga. L. 1985, p. 1183, § 1; Ga. L. 1986, p. 405, § 2; Ga. L. 1986, p. 1313, § 2; Ga. L. 1987, p. 794, § 2; Ga. L. 1987, p. 1386, § 2; Ga. L. 1988, p. 13, § 10; Ga. L. 1988, p. 399, §§ 1-3; Ga. L. 1988, p. 983, § 1; Ga. L. 1988, p. 1657, § 1; Ga. L. 1989, p. 14, § 10; Ga. L. 1989, p. 560, § 3; Ga. L. 1989, p. 1606, § 1; Ga. L. 1990, p. 1653, § 2; Ga. L. 1991, p. 94, § 10; Ga. L. 1992, p. 1129, § 1; Ga. L. 1992, p. 2139, § 1; Ga. L. 1993, p. 91, § 10; Ga. L. 1993, p. 1076, §§ 1, 2; Ga. L. 1993, p. 1676, § 1; Ga. L. 1995, p. 729, § 1; Ga. L. 1996, p. 1030, § 1; Ga. L. 1997, p. 143, § 10; Ga. L. 1997, p. 1507, § 1; Ga. L. 1998, p. 643, § 1; Ga. L. 2000, p. 557, § 1; Ga. L. 2000, p. 1181, § 1; Ga. L. 2000, p. 1589, § 3; Ga. L. 2001, p. 4, § 10; Ga. L. 2001, p. 1170, § 2; Ga. L. 2004, p. 149, § 1; *Ga. L. 2005, p. 334, § 4-2/HB 501*; *Ga. L. 2005, p. 1183, § 2/SB 13*; *Ga. L. 2009, p. 86, § 18/HB 141*; *Ga. L. 2009, p. 453, §§ 1-4, 1-11/HB 228*; *Ga. L. 2010, p. 302, § 1/SB 368*; *Ga. L. 2011, p. 227, § 2/SB 178*; *Ga. L. 2011, p. 705, § 4-6/HB 214*; *Ga. L. 2012, p. 1136, § 1/SB 431*; *Ga. L. 2014, p. 866, § 10/SB 340*; *Ga. L. 2015, p. 1088, § 2/SB 148*; *Ga. L. 2023, p. 255, § 1/SB 90*, effective January 1, 2024; *Ga. L. 2024, p. 1052, § 2(13)/SB 448*, effective July 1, 2024; *Ga. L. 2025, p. 241, § 2/SB 201*, effective July 1, 2025; *Ga. L. 2025, p. 777, § 1/SB 213*, effective July 1, 2025.

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End of Document

O.C.G.A. § 10-1-393.1

Current through the 2026 Regular and Special Sessions 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 — 38) > Article 15 Deceptive or Unfair Practices (Pts. 1 — 9) > PART 2 Fair Business Practices Act (§§ 10-1-390 — 10-1-408)

10-1-393.1. Office supply transactions; solicitations for telephone directory listings.

(a) Unfair or deceptive acts or practices by an office supplier in the conduct of office supply transactions in trade or commerce are declared unlawful.

(b) By way of illustration only and without limiting the scope of subsection (a) of this Code section, the following practices by office suppliers in the conduct of office supply transactions are declared unlawful:

(1) Passing off goods or services as those of another;

(2) Falsely representing to any person that the office supplier is the usual supplier of goods, services, or property purchased by that person;

(3) Falsely representing to any person that the goods, services, or property sold, leased, rented, or shipped by the office supplier are the same brand as that person usually uses;

(4) Misrepresenting in any manner, including the use of a confusingly similar name, the manufacturer, supplier, or seller of the goods, services, or property;

(5) Representing that the prices an office supplier charges are less than a person usually pays for goods, services, or property, unless the goods, services, or property compared are identical and the representation is true;

(6) Shipping or supplying an amount or quantity of goods, services, or property to a person which is substantially greater than the amount or quantity which the person actually orders;

(7) Misrepresenting in any manner, including but not limited to failure to disclose material facts regarding the value of, any gift, prize, or award which will be given by an office supplier in conjunction with any office supply transaction;

(8) Falsely representing that there is an imminent price increase;

(9) Substituting any brand or quality of goods, services, or property for that actually ordered without prior approval of such substitution from the person ordering; or

(10)

(A) Solicitation for inclusion in the listing of a telephone classified advertising directory unless such solicitation form has prominently printed therein at least one inch apart from any other text on the form and in type size and boldness equal to or greater than any other type size and boldness on the form the words:

"THIS IS NOT A BILL. THIS IS A SOLICITATION."

(B) For the purposes of this paragraph, the term "telephone classified advertising directory" refers to any telephone classified advertising directory which is distributed to some or all telephone subscribers in any area of the state and includes such directories distributed by telephone service companies as well as such directories distributed by other parties.

(c) An office supplier may not by contract, agreement, or otherwise limit the operation of this part, notwithstanding any other provision of law.

History

Code 1981, *§ 10-1-393.1*, enacted by Ga. L. 1986, p. 1046, § 2; Ga. L. 1995, p. 733, § 1; *Ga. L. 2015, p. 1088, § 2/SB 148*.

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O.C.G.A. § 10-1-393.2

Current through the 2026 Regular and Special Sessions 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 — 38) > Article 15 Deceptive or Unfair Practices (Pts. 1 — 9) > PART 2 Fair Business Practices Act (§§ 10-1-390 — 10-1-408)

10-1-393.2. Requirements for health spas.

(a) Health spas shall comply with the provisions of this Code section.

(b) A written contract shall be employed which shall constitute the entire agreement between the parties, a fully completed copy of which shall be furnished to the consumer at the time of its execution and which shall show the date of the transaction and the name and address of the seller; provided, however, that no contract shall be valid which has a term in excess of 36 months. Contracts may be renewable at the end of each 36 month period of time at the option of both parties to the contract.

(c) The contract or an attachment thereto shall state clearly any rules and regulations of the seller which are applicable to the consumer's use of the facilities or receipt of its services.

(d) The contract shall state clearly on its face the cancellation and refund policies of the seller.

(e) The health spa member shall have the right to cancel the contract within seven business days after the date of the signing of the contract by notifying the seller in writing of such intent and by either mailing the notice before 12:00 Midnight of the seventh business day after the date of the signing of the contract or by hand delivering the notice of cancellation to the health spa before 12:00 Midnight of the seventh business day following the date of the signing of the contract. The notice must be accompanied by the contract forms, membership cards, and any and all other documents and evidence of membership previously delivered to the buyer. If the health spa member so cancels, any payments made under the contract will be refunded and any evidence of indebtedness executed by the health spa member will be canceled by the seller, provided that the member shall be liable for the fair market value of services actually received, which in no event shall exceed $100.00. The preparation of any documents shall not be construed to be services; provided, however, that any documents prepared which are merely ancillary to services which are actually rendered shall not prevent the health spa from charging for such services actually rendered up to the limits specified in this subsection. Each health spa contract shall contain the following paragraphs separated from all other paragraphs:

> "You (the buyer) have seven business days to cancel this contract. To cancel, mail or hand deliver a letter to the following address:

_____

Name of health spa

_____

Street address

_____

City, State, ZIP Code

> Do not sign this contract if there are any blank spaces above. In the event optional services are offered, be sure that any options you have not selected are lined through or that it is otherwise indicated that you have not selected these options. It is recommended that you send your cancellation notice by registered or certified mail or statutory overnight delivery, return receipt requested, in order to prove that you did cancel. If you do hand deliver your cancellation, be sure to get a signed statement from an official of the spa acknowledging your cancellation.
>
> To be effective, your cancellation must be postmarked by midnight, or hand delivered by midnight on (date)_____, _____, and must include all contract forms, membership cards, and any and all other documents and evidence of membership previously delivered to you.''

The health spa shall fill in the blank spaces in the above paragraph before the consumer signs the contract. In the event a consumer fails to provide with the cancellation notice all contract forms, membership cards, and any and all other documents and evidence of membership previously delivered, the health spa shall either cancel the contract or provide written notice by certified mail or statutory overnight delivery to the consumer that such documents must be provided within 30 days in order for the cancellation to be effective. In the event that the consumer provides the documents within 30 days, the contract shall be canceled as of the date on which the cancellation notice was delivered; provided, however, that should the consumer continue to use the facilities or services during the 30 day period, the cancellation shall be effective on the first business day following the last day on which the consumer uses the facilities or services.

(f) In the event a health spa no longer offers a substantial service which was offered at the time of the initiation of the contract, or in the event a health spa which previously limited its membership to members of one sex should become coeducational or one which was previously coeducational should become limited to members of one sex, the member shall have 30 days from the time the member knew or should have known of the change to cancel the remainder of the membership and receive a refund. The refund shall be calculated by dividing the total cost of the membership by the total number of months under the membership and refunding the monthly cost for any months or fractions of months remaining under the membership. The contract shall contain a clause in at least ten-point boldface type which reads as follows:

> “You (the buyer) may cancel this agreement within 30 days from the time you knew or should have known of any substantial change in the services or programs available at the time you joined. Substantial changes include, but are not limited to, changing from being coed to being exclusively for one sex and vice versa. To cancel, send written notice of your cancellation to the address provided in this contract for sending a notice of cancellation. The best way to cancel is by keeping a photocopy and sending the cancellation by registered or certified mail or statutory overnight delivery, return receipt requested.”

The provisions of this subsection shall not apply in any instance where a court has ordered that a change be made in the sexual character of the health spa. The Attorney General is authorized upon petition to issue a declaratory ruling under *Code Section 50-13-11* as to whether any planned change in a health spa is a substantial change or whether alternate locations are substantially similar under this Code section. Such declaratory rulings shall be subject to review as under Chapter 13 of Title 50, the “Georgia Administrative Procedure Act.”

(g) Every contract for health spa services shall contain a clause providing that if the member becomes totally and permanently disabled during the membership term, he or she may cancel his or her contract and that the health spa is entitled to a reasonable predetermined fee in such event in addition to an amount equal to the value of services made available for use. This amount shall be computed by dividing the total cost of the membership by the total number of months under the membership and multiplying the result by the number of months expired under the membership term. The health spa shall have the right to require and verify reasonable evidence of total and permanent disability. For purposes of this subsection, “total and permanent disability” means a condition which has existed or will exist for more than 45 days and which will prevent the member from using the facility to the same extent as the member used it before commencement of the condition.

(h) The health spa contract shall state that if a consumer has a history of heart disease, he should consult a physician before joining a spa.

(i) Every health spa contract shall comply with either paragraph (1) or paragraph (2) of this subsection:

(1)

(A) The written contract used shall contain the following clause: “Under this contract, no further payments shall be due to anyone, including any purchaser of any note associated with or contained in this contract, in the event the health spa at which the contract is entered into ceases operation and fails to offer an alternate location, substantially similar, within ten miles.”

(B) All payments due under the contract must be in equal monthly installments spread over the entire term of the contract.

(C) There can be no payments of any type, including, but not limited to, down payments, enrollment fees, membership fees, or any other direct payment to the health spa, other than the equal monthly installment payments.

(D) There can be no complimentary, compensatory, or other extensions of the term incident to the term of the contract, including but not limited to a promise of lifetime renewal for a minimal annual fee, provided that an agreement of both parties to extend the term of the contract to compensate for time during which the member could not fully utilize the spa due to a temporary physical or medical condition arising after the member joined shall not be considered to bring the spa into noncompliance under this paragraph; or

(2)

(A) The written contract used shall contain the following clause: “Under this contract, no further payments shall be due to anyone, including any purchaser of any note associated with or contained in this contract, in the event the health spa at which the contract is entered into ceases operation and fails to offer an alternate location, substantially similar, within ten miles.”

(B) The written contract shall contain the following statement in boldface type which is larger and bolder than any other type which is in the contract and in at least 14 point boldface, which statement must be separately signed by the consumer:

“NOTICE

State law requires that we inform you that should you (the buyer) choose to pay for any part of this agreement in advance, be aware that you are paying for future services and may be risking loss of your money in the event this health spa ceases to conduct business. Health spas do not post a bond, and there may be no other protections provided to you should you choose to pay in advance.”

(j) An alternate location for a health spa shall not be considered substantially similar if:

(1) The original facility was limited to use by members of one sex and the alternate facility is used by members of both sexes;

(2) The original facility was for use by members of both sexes and the alternate facility’s use is limited to members of one sex; or

(3) The size, facilities, equipment, or services available to the member at the alternate location are not substantially equal to or do not exceed the size, facilities, equipment, or services available to the member at the health spa location at which the contract was entered into.

(k) Every contract for health spa services shall contain a clause providing that if the member dies during the membership term or any renewal term, his or her estate may cancel the contract and that the health spa is entitled to a reasonable predetermined fee in such event in addition to an amount computed by dividing the total cost of the membership by the total number of months under the membership and multiplying the

result by the number of months expired under the membership term. The contract may require the member's estate seeking relief under this subsection to provide reasonable proof of death.

(l)

(1) A health spa shall not enter or offer to enter into a health spa agreement with a consumer unless the health spa is fully operational and available for use.

(2) For purposes of this subsection, "fully operational and available for use" means that all of the facilities, equipment, or services which are promised at the time of entering into the membership contract are operational and available for use at that time. Nothing contained in this subsection shall be construed to prohibit a health spa from selling a membership for existing services and facilities at a location under construction which can be converted at a later date to a membership for additional services and facilities, provided that:

(A) The additional services and facilities are fully operational and available for use at the time of the conversion;

(B) Additional consideration, other than just a nominal consideration, is required from the consumer under the terms of the conversion; and

(C) The member has until seven days following the date the additional consideration or a part of the additional consideration becomes due and owing to cancel the remainder of the contract and receive a refund computed by dividing the total cost of the membership by the total number of months under the membership and multiplying the result by the number of months remaining under the membership term.

(3) The provisions of this subsection shall not apply if all of the following conditions are met:

(A) The health spa has submitted forms prescribed by the Attorney General requiring, in addition to whatever other information the Attorney General may require, as much detail as to the size, facilities, equipment, or services to be provided as the Attorney General may require;

(B) The health spa has obtained the approval in writing of the Attorney General to sell memberships to a health spa before it is fully operational and available for use;

(C) The health spa has agreed in writing with the Attorney General, on forms prescribed by the Attorney General, to deposit all funds obtained by selling memberships before a health spa is fully operational and available for use in a single account in a bank or trust company domiciled in the State of Georgia. Such deposits are to be held in safekeeping for release only upon authorization of the Attorney General. The bank or trust company must be approved by the Attorney General. The Attorney General may consult with the commissioner of banking and finance or with any of the employees of the commissioner of banking and finance regarding whether the bank or trust company should be approved and may disapprove the bank or trust company if he or she has reason to believe any deposits into the account might not be secure;

(D) Each deposit to the single account established under this paragraph shall be identified by the name and address of the individual who purchased the membership. The bank or trust company and the health spa shall maintain a list of the deposits, their amount, and the name and address of the membership purchaser, which list shall be available to the Attorney General or for inspection or copying by the Attorney General;

(E) The condition of the account established under this paragraph shall be that no funds shall be released from the account to any person unless the Attorney General has certified in writing to the bank or trust company that either the health spa is fully operational and available for use or that the health spa has not complied and does not appear likely to comply with its obligation to make the health spa fully operational and available for use in accordance with the documents submitted to the Attorney General or in accordance with representations made to membership purchasers. No action may be maintained in any court against the Attorney General or any of his or her employees

for any determination or as a consequence of any determination made by the Attorney General under this subparagraph. Nothing contained or implied in this subparagraph shall operate or be construed or applied to deprive the Attorney General or any employee of any immunity, indemnity, benefits of law, rights, or any defense otherwise available by law;

(F) If the Attorney General certifies to the bank or trust company that the health spa is fully operational and available for use, then the funds in the account shall be released to the health spa, along with any accrued interest. If the Attorney General certifies to the bank or trust company that the health spa has not complied and does not appear likely to comply with its obligation to make the health spa fully operational and available for use, then the funds in the account shall be released to the Attorney General on behalf of the individuals who purchased memberships prior to the health spa's being fully operational and available for use. Any accrued interest on the account shall be paid on a pro rata basis to the membership purchasers;

(G) Any costs imposed by the bank or trust company for administering the account shall be borne by the health spa; and

(H) The member shall have until seven business days following the date upon which the health spa becomes fully operational and available for use to cancel the contract and receive a full refund of any payments and the cancellation of any evidence of indebtedness, provided that the member shall be liable for the fair market value of any services actually received, which in no event shall exceed $50.00. The preparation of any documents shall not be construed to be services; provided, however, that all documents prepared which are merely ancillary to services which are actually rendered shall not prevent the health spa from charging for such services actually rendered up to the limits specified in this subparagraph.

(m) All moneys due the consumer under contracts canceled for the reasons contained in this Code section shall be refunded within 30 days of receipt of such notice of cancellation. The notice must be accompanied by the contract forms, membership cards, and any and all other documents and evidence of membership previously delivered to the buyer, except in the case of a deceased member. In the event a consumer fails to provide with the cancellation notice all contract forms, membership cards, and any and all other documents and evidence of membership previously delivered, the health spa shall either cancel the contract or provide written notice by certified mail or statutory overnight delivery to the consumer that such documents must be provided within 30 days in order for the cancellation to be effective. In the event that the consumer provides the documents within 30 days, the contract shall be canceled as of the date on which the cancellation notice was delivered; provided, however, that should the consumer continue to use the facilities or services during the 30 day period, the cancellation shall be effective on the first business day following the last day on which the consumer uses the facility or services.

(n) Any contract which does not comply with this Code section shall be void and unenforceable; no purchaser of any note associated with or contained in any health spa contract shall make any attempt to collect on the note or to report the buyer as delinquent to any consumer reporting or consumer credit reporting agency if there has been any violation by the health spa of subsections (b) through (m) or of subsection (o) of this Code section. Any attempt by any purchaser or by any agent of any purchaser to collect on the note or to report the buyer as delinquent as described in this subsection shall be considered an unfair and deceptive act or practice as provided in *Code Section 10-1-393*.

(o) After November 15, 1989, no health spa contract shall be valid or enforceable unless the health spa operator has on file a statement signed by the Attorney General certifying that a copy of the contract is on file with the Attorney General and is in compliance with this part. Health spas may begin submitting a copy of their contract for approval by the Attorney General on July 1, 1989, and shall submit all contract changes thereafter for approval prior to entering or offering to enter into that contract with a consumer. In addition to any action which may be taken by the Attorney General under this part, and in addition to any recovery of a consumer in the private action provided for under this part, any consumer who has entered into a contract which has not been approved by the Attorney General prior to the date of the contract shall be entitled to

recover as an additional penalty an amount equal to any amount paid plus any amount claimed owing on the contract.

(p) In addition to any other penalties provided for in this part, any person who operates or aids or assists in the operation of a health spa in violation of any of the provisions of subsection (i) or (o) of this Code section shall be guilty of a misdemeanor. Each day of operation of a health spa in violation of subsection (i) or (o) shall be considered a separate and distinct violation. In addition to any other penalties provided in this part, any person who violates subsection (l) of this Code section shall be guilty of a felony. Each sale of a membership in violation of subsection (l) of this Code section shall be considered a separate and distinct violation. Each failure to place properly all of the funds generated from a particular membership agreement into a properly approved and established trust account shall be considered a separate and distinct violation.

History

Code 1981, *§ 10-1-393.2*, enacted by Ga. L. 1989, p. 1606, § 2; Ga. L. 1999, p. 81, § 10; Ga. L. 2000, p. 1589, § 3; *Ga. L. 2015, p. 1088, § 2/SB 148*; *Ga. L. 2016, p. 846, § 10/HB 737*; *Ga. L. 2017, p. 774, § 10/HB 323*.

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O.C.G.A. § 10-1-393.3

Current through the 2026 Regular and Special Sessions 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 — 38) > Article 15 Deceptive or Unfair Practices (Pts. 1 — 9) > PART 2 Fair Business Practices Act (§§ 10-1-390 — 10-1-408)

10-1-393.3. Prohibited use of purchaser's credit card information by merchant.

(a) As used in this Code section, the term "merchant" means any person who offers goods, wares, merchandise, or services for sale to the public and shall include an employee of a merchant.

(b) A merchant shall be prohibited from requiring a purchaser to provide the purchaser's personal or business telephone number as a condition of purchase when payment for the transaction is made by credit card.

(c) A merchant shall be prohibited from using a purchaser's credit card to imprint the information contained on the credit card on the face or back of a check or draft from the purchaser as a condition of acceptance of such check or draft as payment for a purchase.

(d) A merchant shall be prohibited from recording in any manner the number of a purchaser's credit card as a condition of acceptance of a check or draft of the purchaser as payment for a purchase.

(e) Any merchant who violates the provisions of this Code section shall be subject to the penalties provided in this part.

(f) This Code section shall not prohibit a merchant from:

(1) Recording a credit card number and expiration date as a condition to cashing or accepting a check where the merchant has agreed with the credit card issuer to cash or accept such checks as a service to the issuer's cardholders and the issuer has agreed with the merchant to guarantee payment of all cardholder checks cashed or accepted by the merchant;

(2) Requesting a purchaser to display a credit or charge card as a means of identification or as an indication of credit worthiness or financial responsibility;

(3) Recording on the check or elsewhere the type of credit or charge card displayed for the purposes of paragraph (2) of this subsection and the credit or charge card expiration date; or

(4) Recording the address or telephone number of a credit cardholder if the information is necessary for the shipping, delivery, or installation of consumer goods or for special orders of consumer goods or services.

(g) This Code section shall not require acceptance of a check or draft because a credit card is presented.

History

Code 1981, *§ 10-1-393.3*, enacted by Ga. L. 1991, p. 1101, § 1; Ga. L. 1992, p. 6, § 10; *Ga. L. 2015, p. 1088, § 2/SB 148*.

10-1-393.3. Prohibited use of purchaser’s credit card information by merchant.

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O.C.G.A. § 10-1-393.4

Current through the 2026 Regular and Special Sessions of the General Assembly.

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10-1-393.4. Pricing practices during state of emergency.

(a) It shall be an unlawful, unfair, and deceptive trade practice for any person, firm, or corporation doing business in any area in which a state of emergency, as such term is defined in *Code Section 38-3-3*, has been declared, for so long as such state of emergency exists, to sell or offer for sale at retail any goods or services identified by the Governor in the declaration of the state of emergency necessary to preserve, protect, or sustain the life, health, or safety of persons or their property at a price higher than the price at which such goods were sold or offered for sale immediately prior to the declaration of a state of emergency; provided, however, that such price may be increased only in an amount which accurately reflects an increase in cost of the goods or services to the person selling the goods or services or an increase in the cost of transporting the goods or services into the area.

(b) Notwithstanding the provisions of subsection (a) of this Code section, a retailer may increase the price of goods or services during a state of emergency if the price charged for those goods or services is no greater than the cost to the retailer of those goods or services, plus the retailer's average markup percentage applied during the ten days immediately prior to the declaration of a state of emergency.

History

Code 1981, *§ 10-1-393.4*, enacted by Ga. L. 1995, p. 1362, § 1; *Ga. L. 2010, p. 213, § 1/SB 237*; *Ga. L. 2015, p. 1088, § 2/SB 148*.

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O.C.G.A. § 10-1-393.5

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10-1-393.5. Prohibitions related to telemarketing, computer activities, and home repair or improvement work; removal of arrest booking photographs published online; penalties and enforcement.

(a) For purposes of this Code section, the term "telemarketing" shall have the same meaning which it has under 16 Code of Federal Regulations Part 310, the Telemarketing Sales Rule of the Federal Trade Commission, except that the term "telemarketing" shall also include those calls made in intrastate as well as interstate commerce.

(b) Without otherwise limiting the definition of unfair and deceptive acts or practices under this part, it shall be unlawful for any person who is engaged in telemarketing, any person who is engaged in any activity involving or using a computer or computer network, or any person who is engaged in home repair work or home improvement work to:

(1) Employ any device, scheme, or artifice to defraud a person, organization, or entity;

(2) Engage in any act, practice, or course of business that operates or would operate as a fraud or deceit upon a person, organization, or entity; or

(3) Commit any offense involving theft under *Code Sections 16-8-2* through *16-8-9*.

(b.1)

(1) As used in this subsection, the term:

(A) "Photograph" means a photograph of a subject individual that was taken in this state by an arresting law enforcement agency.

(B) "Subject individual" means an individual who was arrested and had his or her photograph taken and:

(i) Access to his or her case or charges was restricted pursuant to *Code Section 3-3-23.1*, *15-1-20*, *16-13-2*, *35-3-37*, or *42-8-62.1*;

(ii) Prior to indictment, accusation, or other charging instrument, his or her case was never referred for further prosecution to the proper prosecuting attorney by the arresting law enforcement agency and the offense against such individual was closed by the arresting law enforcement agency;

(iii) Prior to indictment, accusation, or other charging instrument, the statute of limitations expired;

(iv) Prior to indictment, accusation, or other charging instrument, his or her case was referred to the prosecuting attorney but was later dismissed;

(v) Prior to indictment, accusation, or other charging instrument, the grand jury returned two no bills;

(vi) After indictment or accusation, all charges were dismissed or nolle prossed;

(vii) After indictment or accusation, the individual pleaded guilty to or was found guilty of possession of a narcotic drug, marijuana, or stimulant, depressant, or hallucinogenic drug and was sentenced in accordance with the provisions of *Code Section 16-13-2*, and the individual successfully completed the terms and conditions of his or her probation; or

(viii) The individual was acquitted of all of the charges by a judge or jury.

(2) Any person who is engaged in any activity involving or using a computer or computer network who publishes on such person's publicly available website a subject individual's arrest booking photograph for purposes of commerce shall be deemed to be transacting business in this state. Within 30 days of the sending of a written request by a subject individual, including his or her name, date of birth, date of arrest, and the name of the arresting law enforcement agency, such person shall, without fee or compensation, remove from such person's website the subject individual's arrest booking photograph. Such written request shall be transmitted via certified mail, return receipt requested, or statutory overnight delivery, to the registered agent, principal place of business, or primary residence of the person who published the website. Without otherwise limiting the definition of unfair and deceptive acts or practices under this part, a failure to comply with this paragraph shall be unlawful.

(c) In addition to any civil penalties under this part, any person who intentionally violates subsection (b) of this Code section shall be subject to a criminal penalty under paragraph (5) of subsection (a) of *Code Section 16-8-12*. In addition thereto, if the violator is a corporation, each of its officers and directors may be subjected to a like penalty; if the violator is a sole proprietorship, the owner thereof may be subjected to a like penalty; and, if the violator is a partnership, each of the partners may be subjected to a like penalty, provided that no person shall be subjected to a like penalty if the person did not have prior actual knowledge of the acts violating subsection (b) of this Code section.

(d) Any person who intentionally targets an elder or disabled person, as defined in Article 31 of this chapter, in a violation of subsection (b) of this Code section shall be subject to an additional civil penalty, as provided in *Code Section 10-1-851*.

(e) Persons employed full time or part time for the purpose of conducting potentially criminal investigations under this article shall be certified peace officers and shall have all the powers of a certified peace officer of this state when engaged in the enforcement of this article, including but not limited to the power to obtain, serve, and execute search warrants. Such Georgia certified peace officers shall be subject to the requirements of Chapter 8 of Title 35, the "Georgia Peace Officer Standards and Training Act," and are specifically required to complete the training required for peace officers by that chapter. Such certified peace officers shall be authorized, upon completion of the required training, with the written approval of the Attorney General, and notwithstanding *Code Sections 16-11-126* and *16-11-129*, to carry firearms of a standard police issue when engaged in detecting, investigating, or preventing crimes under this article.

(f) The Attorney General shall be authorized to promulgate procedural rules relating to his or her enforcement duties under this Code section.

History

Code 1981, *§ 10-1-393.5*, enacted by Ga. L. 1996, p. 231, § 1; Ga. L. 1997, p. 1507, § 2; Ga. L. 2004, p. 631, § 10; *Ga. L. 2010, p. 963, § 2-1/SB 308*; *Ga. L. 2013, p. 613, § 1/HB 150*; *Ga. L. 2015, p. 1088, § 2/SB 148*; *Ga. L. 2016, p. 443, § 6C-1/SB 367*; *Ga. L. 2020, p. 753, § 2-2/SB 288*.

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O.C.G.A. § 10-1-393.6

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10-1-393.6. Unlawful telemarketing transactions; criminal penalty.

(a) For purposes of this Code section, the term “telemarketing” shall have the same meaning which it has under *Code Section 10-1-393.5*.

(b) Without otherwise limiting the definition of unfair or deceptive acts or practices under this part and without limiting any other Code section under this part, it shall be unlawful for any person to:

(1) In connection with a telemarketing transaction, request a fee in advance to remove derogatory information from or improve a person’s credit history or credit record;

(2) Request or receive payment in advance from a person to recover, or otherwise aid in the return of, money or any other item lost by the consumer in a prior telemarketing transaction; provided, however, that this paragraph shall not apply to goods or services provided to a person by a licensed attorney; or

(3) In connection with a telemarketing transaction, procure the services of any professional delivery, courier, or other pickup service to obtain immediate receipt or possession of a consumer’s payment, unless the goods are delivered with the opportunity to inspect before any payment is collected.

(c) In addition to any civil penalties under this part, any person who intentionally violates subsection (b) of this Code section shall be subject to a criminal penalty under paragraph (5) of subsection (a) of *Code Section 16-8-12*. In addition thereto, if the violator is a corporation, each of its officers and directors may be subjected to a like penalty; if the violator is a sole proprietorship, the owner thereof may be subjected to a like penalty; and, if the violator is a partnership, each of the partners may be subjected to a like penalty, provided that no person shall be subjected to a like penalty if the person did not have prior actual knowledge of the acts violating subsection (b) of this Code section.

History

Code 1981, *§ 10-1-393.6*, enacted by Ga. L. 1998, p. 643, § 2; Ga. L. 2004, p. 631, § 10; *Ga. L. 2015, p. 1088, § 2/SB 148*.

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10-1-393.7. Solicitation during final illness; penalty.

(a) Without otherwise limiting the definition of unfair or deceptive acts or practices under this part, it shall be unlawful for any person to solicit another during such other's final illness or during the final illness of any other person for the purpose of persuading a person who is suffering from his or her final illness or a person acting on behalf of such person to seek refund of moneys paid for an existing preneed contract for burial services or merchandise or funeral services or merchandise.

(b) In addition to any other penalty imposed for the violation of this Code section, the administrative agency which issues a finding of violation shall order the violator to pay restitution in the amount of the refund to the person, corporation, partnership, or other legal entity which refunded moneys paid for an existing preneed contract for burial services or merchandise or funeral services or merchandise.

History

Code 1981, *§ 10-1-393.7*, enacted by Ga. L. 2000, p. 882, § 2; *Ga. L. 2015, p. 1088, § 2/SB 148*.

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10-1-393.8. Protection from disclosure of an individual's social security number.

(a) Except as otherwise provided in this Code section, a person, firm, or corporation shall not:

(1) Publicly post or publicly display in any manner an individual's social security number. As used in this Code section, the term "publicly post" or "publicly display" means to intentionally communicate or otherwise make available to the general public;

(2) Require an individual to transmit his or her social security number over the internet, unless the connection is secure or the social security number is encrypted; or

(3) Require an individual to use his or her social security number to access an internet website, unless a password or unique personal identification number or other authentication device is also required to access the internet website.

(b) This Code section shall not apply to:

(1) The collection, release, or use of an individual's social security number as required by state or federal law;

(2) The inclusion of an individual's social security number in an application, form, or document sent by mail, electronically transmitted, or transmitted by facsimile:

(A) As part of an application or enrollment process;

(B) To establish, amend, or terminate an account, contract, or policy; or

(C) To confirm the accuracy of the individual's social security number;

(3) The use of an individual's social security number for internal verification or administrative purposes; or

(4) An interactive computer service provider's or a telecommunications provider's transmission or routing of, or intermediate temporary storage or caching of, an individual's social security number.

(c) This Code section shall not impose a duty on an interactive computer service provider or a telecommunications provider actively to monitor its service or to affirmatively seek evidence of the transmission of social security numbers on its service.

(d) Notwithstanding the provisions of this Code section, the clerks of superior court of this state and the Georgia Superior Court Clerks' Cooperative Authority shall be held harmless for filing, publicly posting, or publicly displaying any document containing an individual's social security number that the clerk is otherwise required by law to file, publicly post, or publicly display for public inspection.

History

10-1-393.8. Protection from disclosure of an individual's social security number.

Code 1981, *§ 10-1-393.8*, enacted by *Ga. L. 2006, p. 486, § 1/SB 588*; *Ga. L. 2015, p. 1088, § 2/SB 148*; *Ga. L. 2024, p. 1052, § 2(14)/SB 448*, effective July 1, 2024.

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O.C.G.A. § 10-1-393.9

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Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 1 Selling and Other Trade Practices (Arts. 1 — 38) > Article 15 Deceptive or Unfair Practices (Pts. 1 — 9) > PART 2 Fair Business Practices Act (§§ 10-1-390 — 10-1-408)

10-1-393.9. Registration of private child support collectors; surety bond or alternative.

(a) Private child support collectors shall register with the Secretary of State and shall provide information as requested by the Secretary of State, including, but not limited to, the name of the private child support collector, the office address and telephone number for such entity, and the registered agent in this state on whom service of process is to be made in a proceeding against such private child support collector.

(b) An application for registration shall be accompanied by a surety bond filed, held, and approved by the Secretary of State, and the surety bond shall be:

(1) Issued by a surety authorized to do business in this state;

(2) In the amount of $50,000.00;

(3) In favor of the state for the benefit of a person damaged by a violation of this Code section; and

(4) Conditioned on the private child support collector's compliance with this Code section and *Code Section 10-1-393.10* and the faithful performance of the obligations under the private child support collector's agreements with its clients.

(c) In lieu of a surety bond, the Secretary of State may accept a deposit of money in the amount of $50,000.00. The Secretary of State shall deposit any amounts received under this subsection in an insured depository account designated for that purpose.

History

Code 1981, *§ 10-1-393.9*, enacted by *Ga. L. 2009, p. 1001, § 3/HB 189*; *Ga. L. 2015, p. 1088, § 2/SB 148*.

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10-1-393.10. Filing contracts for child support collection; requirements for contracts; role of collector; cancellation of contract; forwarding of payments.

(a) Any contract for the collection of child support between a private child support collector and an obligee shall be filed by the private child support collector with the office of the Attorney General.

(b) Any contract for the collection of child support between a private child support collector and an obligee shall be in writing, in at least ten-point type, and signed by such private child support collector and obligee. The contract shall include:

(1) An explanation of the nature of the services to be provided;

(2) An explanation of the amount to be collected from the obligor by the private child support collector and a statement of a sum certain of the total amount that is to be collected by the private child support collector that has been engaged by the obligee;

(3) An explanation in dollar figures of the maximum amount of fees which could be collected under the contract and an example of how fees are calculated and deducted;

(4) A statement that fees shall only be charged for collecting past due child support, although the contract may include provisions to collect current and past due child support;

(5) A statement that a private child support collector shall not retain fees from collections that are primarily attributable to the actions of the department and that a private child support collector shall be required by law to refund any fees improperly retained;

(6) An explanation of the opportunities available to the obligee or private child support collector to cancel the contract or other conditions under which the contract terminates;

(7) The mailing address, telephone numbers, facsimile numbers, and email address of the private child support collector;

(8) A statement that the private child support collector shall only collect money owed to the obligee and not child support assigned to the State of Georgia;

(9) A statement that the private child support collector is not a governmental entity and that the department provides child support enforcement services at little or no cost to the obligee; and

(10) A statement that the obligee may continue to use or pursue services through the department to collect child support.

(c) A private child support collector shall not:

(1) Improperly retain fees from collections that are primarily attributable to the actions of the department. If the department or an obligee notifies a private child support collector of such improper fee retention, such private child support collector shall refund such fees to the obligee within seven business days of the notification of the improper retention of fees and shall not be liable for such

improper fee retention. A private child support collector may require documentation that the collection was primarily attributable to the actions of the department prior to issuing any refund;

(2) Charge fees in excess of one-third of the total amount of child support payments collected;

(3) Solicit obligees using marketing materials, advertisements, or representations reasonably calculated to create a false impression or mislead an obligee into believing the private child support collector is affiliated with the department or any other governmental entity;

(4) Use or threaten to use violence or other criminal means to cause harm to an obligor or the property of the obligor;

(5) Falsely accuse or threaten to falsely accuse an obligor of a violation of state or federal laws;

(6) Take or threaten to take an enforcement action against an obligor that is not authorized by law;

(7) Represent to an obligor that the private child support collector is affiliated with the department or any other governmental entity authorized to enforce child support obligations or fail to include in any written correspondence to an obligor the statement that “This communication is from a private child support collector. The purpose of this communication is to collect a child support debt. Any information obtained will be used for that purpose.”;

(8) Communicate to an obligor’s employer, or his or her agent, any information relating to an obligor’s indebtedness other than through proper legal action, process, or proceeding;

(9) Communicate with an obligor whenever it appears the obligor is represented by an attorney and the attorney’s name and address are known, or could be easily ascertained, unless the attorney fails to answer correspondences, return telephone calls, or discuss the obligation in question, or unless the attorney and the obligor consent to direct communication;

(10) Contract with an obligee who is owed less than three months of child support arrearages; or

(11) Contract with an obligee for a sum certain to be collected which is greater than the total sum of arrearages and the statutory interest owed as of the date of execution of the contract.

(d) In addition to any other cancellation or termination provisions provided in the contract between a private child support collector and an obligee, the contract shall be cancelled or terminate if:

(1) The obligee requests cancellation in writing within 30 days of signing the contract;

(2) The obligee requests cancellation in writing after any 12 consecutive months in which the private child support collector fails to make a collection;

(3) The private child support collector breaches any term of the contract or violates any provision contained within this Code section; or

(4) The amount to be collected pursuant to the contract has been collected.

(e) When it reasonably appears to the Attorney General that a private child support collector has contracted with obligees on or after July 1, 2009, using a contract that is not in compliance with this Code section, the Attorney General may demand pursuant to *Code Section 10-1-403* that such private child support collector produce a true and accurate copy of each such contract. If such private child support collector fails to comply or the contracts are determined by the Attorney General to not be compliant with the provisions of this Code section, the Attorney General may utilize any of the powers vested in this part to ensure compliance.

(f) Upon the request of an obligee, the entity within the department authorized to enforce support orders shall forward child support payments made payable to the obligee to any private child support collector that is in compliance with the provisions of this Code section and *Code Section 10-1-393.9*.

(g) The remedies provided in this part shall be cumulative and shall be in addition to any other procedures, rights, or remedies available under any other law.

10-1-393.10. Filing contracts for child support collection; requirements for contracts; role of collector; cancellation of contract; forwarding of payments.

(h) Any waiver of the rights, requirements, and remedies provided by this Code section that are contained in a contract between a private child support collector and an obligee violates public policy and shall be void.

History

Code 1981, *§ 10-1-393.10*, enacted by *Ga. L. 2009, p. 1001, § 3/HB 189*; *Ga. L. 2015, p. 1088, § 2/SB 148*; *Ga. L. 2017, p. 646, § 2-2/SB 137*; *Ga. L. 2024, p. 1052, § 2(15)/SB 448*, effective July 1, 2024.

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10-1-393.11. Display of disclosure statement concerning kosher foods; required information; exception.

(a) A person who makes a representation regarding kosher food shall prominently and conspicuously display on the premises on which the food is sold, in a location readily visible to the consumer, a completed kosher food disclosure statement which shall be updated within 14 days of any changes in the information required by subsections (b) through (e) of this Code section.

(b) A kosher food disclosure statement shall set forth the name and address of the establishment to which it applies and the date on which it was completed.

(c) A kosher food disclosure statement shall state in the affirmative or negative whether the person:

(1) Operates under rabbinical or other kosher supervision;

(2) Sells or serves only food represented as kosher;

(3) Sells or serves food represented as kosher, as well as food not represented as kosher;

(4) Sells or serves meat, dairy, and pareve food;

(5) Sells or serves only meat and pareve food;

(6) Sells or serves only dairy and pareve food;

(7) Sells or serves meat and poultry represented as kosher only if it is slaughtered under rabbinical or other kosher supervision and identified at the slaughterhouse to be sold as kosher;

(8) Represents kosher meat sold as “Glatt kosher” or “Glatt”;

(9) Sells or serves seafood only if it has or had fins and removable scales;

(10) Keeps separate meat represented as kosher, dairy represented as kosher, pareve food represented as kosher, and food not represented as kosher;

(11) Uses separate utensils for meat represented as kosher, dairy represented as kosher, pareve food represented as kosher, and food not represented as kosher;

(12) Uses separate work areas for meat and poultry represented as kosher, dairy represented as kosher, pareve food represented as kosher, and food not represented as kosher;

(13) Sells or serves wine represented as kosher only if it has rabbinical supervision;

(14) Sells or serves cheese represented as kosher only if it has rabbinical supervision;

(15) Sells or serves food represented as kosher for Passover;

(16) Uses separate utensils for food represented as kosher for Passover and food not represented as kosher for Passover;

(17) Uses separate work areas for food represented as kosher for Passover and food not represented as kosher for Passover;

(18) Keeps food represented as kosher for Passover free from and not in contact with food not represented as kosher for Passover; and

(19) Prepares food represented as kosher for Passover under rabbinical or other kosher supervision.

(d) If a kosher food disclosure statement has an affirmative response to the question contained in paragraph (15) of subsection (c) of this Code section, responses to the questions contained in paragraphs (16) through (19) shall be required; otherwise, such responses shall not be required.

(e) A person who represents to the public that any unpackaged food for sale or a place of business is under rabbinical or other kosher supervision shall also provide in the kosher food disclosure statement the following information about the rabbinical or other kosher supervision:

(1) The name of the supervising rabbi, agency, or other person;

(2) The address of the supervising rabbi, agency, or other person;

(3) The telephone number of the supervising rabbi, agency, or other person;

(4) The frequency with which the supervising rabbi, agency, or other person visits the establishment; and

(5) Any relevant affiliations of the supervising rabbi, agency, or other person that the person making the disclosure wishes to disclose.

(f) The Attorney General shall promulgate a form for the kosher food disclosure statement and any additional information that the Attorney General deems reasonable and necessary for full and complete disclosure. The completion and prominent and conspicuous display of such form shall constitute compliance with subsections (b) through (e) of this Code section.

(g) No person shall display a kosher food disclosure statement or other written document stating that a rabbi, agency, or other person certifies food or a place of business as kosher or kosher for Passover if no such certification is being provided. The person making the display shall remove the statement or document if the rabbi, agency, or other person sends a notice via certified mail or statutory overnight delivery directed to the person making the display that no such certification is being provided.

(h) It shall be unlawful for any person to:

(1) Fail to complete and prominently and conspicuously display a kosher food disclosure statement as required by this Code section;

(2) Otherwise fail to comply with this Code section; or

(3) Knowingly or intentionally, with intent to defraud, make a false affirmation or disclosure in a kosher food disclosure statement.

(i) This Code section shall not apply to:

(1) Food sold in a presealed kosher food package; or

(2) Food represented as “kosher-style” or “kosher-type.”

History

Code 1981, *§ 10-1-393.11*, enacted by *Ga. L. 2010, p. 114, § 4/HB 1345*; *Ga. L. 2015, p. 1088, § 2/SB 148*.

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O.C.G.A. § 10-1-393.12

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10-1-393.12. Right to cancel contract with residential roofing contractor; notice of cancellation; prohibitions.

(a) As used in this Code section, the term:

(1) "Residential real estate" means a new or existing building constructed for habitation by one to four families, including detached garages.

(2) "Residential roofing contractor" means a person or entity in the business of contracting or offering to contract with an owner or possessor of residential real estate to repair or replace roof systems.

(3) "Roof system" means a roof covering, roof sheathing, roof weatherproofing, roof framing, roof ventilation system, and insulation.

(b) A person who has entered into a written contract with a residential roofing contractor to provide goods or services to be paid from the proceeds of a property and casualty insurance policy may cancel the contract prior to midnight on the fifth business day after the insured has received written notice from the insurer that all or any part of the claim or contract is not a covered loss under such insurance policy. Cancellation shall be evidenced by the insured giving written notice of cancellation to the residential roofing contractor at the address stated in the contract. Notice of cancellation, if given by mail, shall be effective upon deposit into the United States mail, postage prepaid and properly addressed to the residential roofing contractor. Notice of cancellation need not take a particular form and shall be sufficient if it indicates, by any form of written expression, the intention of the insured not to be bound by the contract.

(c) Before entering a contract as provided in subsection (b) of this Code section, the residential roofing contractor shall:

(1) Furnish the insured a statement in boldface type of a minimum size of ten points, in substantially the following form:

"You may cancel this contract at any time before midnight on the fifth business day after you have received written notification from your insurer that all or any part of the claim or contract is not a covered loss under the insurance policy. This right to cancel is in addition to any other rights of cancellation which may be found in state or federal law or regulation. See attached notice of cancellation form for an explanation of this right"; and

(2) Furnish each insured a fully completed form in duplicate, captioned "NOTICE OF CANCELLATION," which shall be attached to the contract but easily detachable, and which shall contain in boldface type of a minimum size of ten points the following statement:

"NOTICE OF CANCELLATION"

If you are notified by your insurer that all or any part of the claim or contract is not a covered loss under the insurance policy, you may cancel the contract by mailing or delivering a signed and dated copy of this cancellation notice or any other written notice to _____(name of contractor)_____at ____(address of contractor's place of business)____at any time prior to midnight on the fifth business day after you have received such notice from your insurer.

I HEREBY CANCEL THIS TRANSACTION

_____

Date

_____

Insured's signature

(d) In circumstances in which payment may be made from the proceeds of a property and casualty insurance policy, a residential roofing contractor shall not require any payments from an insured until the five-day cancellation period has expired. If, however, the residential roofing contractor has performed any emergency services, acknowledged by the insured in writing to be necessary to prevent damage to the premises, the residential roofing contractor shall be entitled to collect the amount due for the emergency services at the time they are rendered. Any provision in a contract as provided in subsection (b) of this Code section that requires the payment of any fee for anything except emergency services shall not be enforceable against any insured who has canceled a contract under this Code section.

(e) A residential roofing contractor shall not represent or negotiate, or offer or advertise to represent or negotiate, on behalf of an owner or possessor of residential real estate on any insurance claim in connection with the repair or replacement of roof systems. This subsection shall not apply to a public adjuster licensed under Chapter 23 of Title 33.

History

Code 1981, *§ 10-1-393.12*, enacted by *Ga. L. 2011, p. 613, § 1/HB 423*; *Ga. L. 2015, p. 1088, § 2/SB 148*.

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10-1-393.13. Requirements of telephone solicitations; class actions for violation.

(a) As used in this Code section, the term:

(1) "ADAD equipment" means any device or system of devices which is used, whether alone or in conjunction with other equipment, for the purpose of automatically selecting or dialing telephone numbers and disseminating prerecorded messages to the numbers so selected or dialed.

(2) "Business" means any corporation, partnership, proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, trust, or other legal entity.

(3) "Caller identification service" means a type of telephone service which permits subscribers to see the telephone number of incoming telephone calls.

(4) "In this state" means the call:

(A) Originates from this state; or

(B) Is directed by the caller to this state and received at the place to which it is directed.

(5) "Subscriber" means a person or business that has subscribed to telephone service from a local exchange company or mobile, wireless, or other telephone service provider or other persons living, residing, or working with such person or business.

(6) "Telephone solicitation" means any voice communication from a live operator, through the use of ADAD equipment or by other means, over a telephone line or computer network for the purpose of encouraging the purchase or rental of, or investment in, property, goods, or services or donation to any organization, but shall not include communications:

(A) To any subscriber with that subscriber's prior express invitation or permission;

(B) By or on behalf of any person or entity with whom a subscriber has a prior or current business or personal relationship; or

(C) Which convey a political message.

(b) Without otherwise limiting the definition of unfair or deceptive acts or practices under this part and without limiting any other Code section under this part, in connection with a telephone solicitation:

(1) At the beginning of such call, the person or entity making the call shall state clearly the identity of the person or entity initiating the call;

(2) No person or entity who makes a telephone solicitation to the telephone line of a subscriber in this state shall knowingly utilize any method to block or otherwise circumvent such subscriber's use of a caller identification service;

(3) The telephone number displayed on the caller identification service shall be a working telephone number capable of receiving incoming calls at the time the call is placed; and

(4) The identity of the caller displayed on the caller identification service shall accurately reflect the identity of the caller.

(c) Notwithstanding *Code Section 10-1-399*, a claim of a violation of this Code section may be brought in a representative capacity and may be the subject of a class action under *Code Section 9-11-23*. Damages for such violation shall be the greater of actual damages or $10.00 per violation.

History

Code 1981, *§ 10-1-393.13*, enacted by *Ga. L. 2012, p. 640, § 1/HB 1132*; *Ga. L. 2015, p. 1088, § 2/SB 148*.

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10-1-393.14. Requirements relating to consumer reports furnished for employment purposes.

(a) As used in this Code section, the term:

(1) "Adverse effect" means:

(A) A denial of employment;

(B) Any other decision for employment purposes that negatively affects any current or prospective employee; or

(C) A denial or cancellation of, an increase in any charge for, or any other adverse or unfavorable change in the terms of any license.

(2) "Consumer report" means any written, oral, or other communication of any information bearing on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living which is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing the consumer's eligibility for purposes of credit, insurance, or employment.

(3) "Consumer reporting agency" means any person or entity which, for monetary fees or dues or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties.

(4) "Employment purposes" means used for the purpose of evaluating a consumer for employment, promotion, reassignment, retention as an employee, or licensing.

(b) A consumer reporting agency which furnishes a consumer report for employment purposes and which for that purpose compiles and reports items of information on consumers which are matters of public record and are likely to have an adverse effect upon a consumer's ability to obtain employment shall:

(1) At the time such public record information is reported to the user of such consumer report, notify the consumer of the fact that public record information is being reported by the consumer reporting agency, together with the name and address of the person to whom such information is being reported; or

(2) Maintain strict procedures designed to ensure that whenever public record information which is likely to have an adverse effect on a consumer's ability to obtain employment is reported it is complete and up to date. For purposes of this paragraph, items of public record relating to arrests, indictments, and convictions shall be considered up to date if the current public record status of the item at the time of the report is reported.

(c) A consumer reporting agency shall be considered to be conducting business in this state if it provides information to any individual, partnership, corporation, association, or any other group however organized that is domiciled within this state or whose principal place of business is within this state.

(d) A consumer reporting agency that provides a consumer report for employment purposes that is in compliance with the federal *Fair Credit Reporting Act* in existence on March 11, 2015, shall be deemed to have complied with this Code section.

History

Code 1981, *§ 10-1-393.14*, enacted by *Ga. L. 2015, p. 519, § 1-1/HB 328*.

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10-1-393.15. Required notice for solicitation of services to obtain copies of real estate records; penalties.

(a) For purposes of this Code section, the term "instrument conveying real estate" means any documentary material evidencing an interest in real property required under law to be recorded with the superior court in the county in which the land is located, including, but not limited to, a deed to secure debt, a mortgage, a deed under power, and a lien.

(b) Any person who mails a solicitation for services to obtain a copy of an instrument conveying real estate shall include, in at least 16 point Helvetica font at the top of and at least two inches apart from any other text on such solicitation, the words:

"THIS IS NOT A BILL OR OFFICIAL GOVERNMENT DOCUMENT. THIS IS A SOLICITATION."

No text on the solicitation shall be larger than the above required words.

(c) Failure to comply with the provisions of this Code section shall be considered an unfair or deceptive act or practice which is unlawful and which shall be punishable by the provisions of this part.

History

Code 1981, *§ 10-1-393.15*, enacted by *Ga. L. 2017, p. 218, § 1/HB 197*.

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O.C.G.A. § 10-1-393.16

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10-1-393.16. Written solicitations relating to corporate filings, employment or labor posters, or notices; definition; penalty for noncompliance.

(a) For purposes of this Code section, the term "corporate filings" means any documents required by law to be filed with the Secretary of State pursuant to Title 14.

(b) Any written solicitation relating to corporate filings or employment or labor posters or notices shall include, in at least 16 point Helvetica font:

(1) At the top of and at least two inches apart from any other text on such solicitation, the words:

"THIS IS A SOLICITATION. THIS IS NOT A BILL OR OFFICIAL GOVERNMENT DOCUMENT AND HAS NOT BEEN SENT BY THE GEORGIA SECRETARY OF STATE'S OFFICE OR THE GEORGIA DEPARTMENT OF LABOR."

No text on the solicitation shall be larger than the above required words.

(2) On front of the envelope or, if there is no envelope, on the part of the written solicitation that bears the postage stamp or amount, the word:

"SOLICITATION"

(c) Failure to comply with the provisions of this Code section shall be considered an unfair or deceptive act or practice which is unlawful and which shall be punishable by the provisions of this part; provided, however, that notwithstanding *Code Section 10-1-399*, a claim of a violation of this Code section may be brought in a representative capacity and may be the subject of a class action under *Code Section 9-11-23*; and provided, further, that damages for such violation shall be the actual damages or $200.00 per violation, whichever is greater.

History

Code 1981, *§ 10-1-393.16*, enacted by *Ga. L. 2021, p. 508, § 1/HB 153*; *Ga. L. 2022, p. 394, § 1/SB 363*.

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10-1-393.17. Protections for vocal or instrumental rights; unlawful advertisements, performances, or productions.

(a) As used in this part, the term:

(1) "Performing group" means a vocal or instrumental act consisting of one or more members that intends to advertise or appear under the name of a recording group or a name substantially similar to a recording group.

(2) "Recording group" means a vocal or instrumental act that consists of one or more members of which:

(A) At least one has previously released a sound recording commercially under such act's name; and

(B) At least one has a legal right to such act's name by virtue of use or operation under such act's name without having abandoned such name or affiliation with such act.

(3) "Service mark" means any word, name, symbol, or device or any combination thereof adopted and used by a person to identify the services of such person and to distinguish such services from the services of others.

(4) "Sound recording" means a work that results from the fixation of a series of musical, spoken, or other sounds, regardless of the nature of the material object, such as a phonograph, disc, tape, wire, digital storage, or other medium in which the sounds are embodied.

(b) It shall be unlawful for a person to advertise or conduct a vocal or instrumental performance or production in this state by using any false, deceptive, or misleading affiliation, connection, or association between a performing group and a recording group without the express authorization of the recording group unless:

(1) Such person or performing group is the authorized registrant and owner of a service mark for the recording group that is registered in the United States Patent and Trademark Office;

(2) At least one member of the performing group was a member of the recording group and such member of the recording group has a legal right to use or operate under the name of the recording group;

(3) The performance or production is identified in all advertising and promotion as a salute or tribute and the name of the performing group is not so closely related or similar to the name used by the recording group that it would tend to confuse or mislead the public; or

(4) The advertisement does not relate to a live performance or production taking place in, streamed into, or broadcasted in this state.

(c) Each advertisement, performance, or production in violation of this Code section shall constitute a separate violation.

10-1-393.17. Protections for vocal or instrumental rights; unlawful advertisements, performances, or productions.

History

Code 1981, *§ 10-1-393.17*, enacted by *Ga. L. 2022, p. 203, § 1/HB 508*.

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O.C.G.A. § 10-1-393.18

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10-1-393.18. Required disclosures for commercial financing transactions; exceptions; limitations on brokers; enforcement; civil penalties.

(a) As used in this Code section, the term:

(1) "Accounts receivable purchase transaction" means a transaction in which a business forwards or otherwise sells to a person all or a portion of the business's accounts, as defined in *Code Section 11-9-102*, or payment intangibles, as defined in *Code Section 11-9-102*, at a discount to the accounts' or payment intangibles' expected value.

(2) "Advance fee" means any consideration which is assessed or collected prior to the closing of a commercial financing transaction by a broker.

(3) "Broker" means a person who, for compensation or the expectation of compensation, arranges a commercial financing transaction between a third party and a business in the state that would, if executed, be binding upon that third party and communicates that offer to a business located in this state. Such term excludes a "provider," and any individual or entity whose compensation is not based or dependent upon on the terms of the specific commercial financing transaction obtained or offered.

(4) "Business" means a private enterprise carried on for the purpose of gain or economic profit.

(5)

(A) "Business purpose transaction" means a transaction from which the resulting proceeds that a business receives are:

(i) Provided to the business; or

(ii) Intended to be used to carry on the business.

(B) Such term shall not include a transaction from which the resulting proceeds are intended to be used for personal, family, or household purposes.

(C) For purposes of determining whether a transaction is a business purpose transaction, a provider may rely on a written statement of intended purpose, signed by an individual authorized to sign on behalf of the business. Such written statement may be contained in an application, agreement, or other document signed by an individual authorized to sign on behalf of the business.

(6) "Commercial financing transaction" means a business purpose transaction:

(A) Under which a person extends a business a commercial loan or a commercial open-end credit plan; or

(B) That is an accounts receivable purchase transaction.

(7) "Commercial loan" means a loan to a business, regardless of whether the loan is secured.

(8) "Commercial open-end credit plan" means commercial financing extended to a business on terms under which:

(A) The creditor reasonably contemplates repeat transactions; and

(B) Subject to any limit set by the creditor, the amount of financing that the creditor may extend to the business during the term of the plan is made available to the extent that any outstanding balance is repaid.

(9) "Motor vehicle dealer" means a dealer as defined in *Code Section 40-2-39* or a used motor vehicle dealer as defined in *Code Section 43-47-2*.

(10) "Provider" means a person who consummates more than five commercial financing transactions in this state during any calendar year and includes, but is not limited to, a person who, under a written agreement with a depository institution, offers one or more commercial financing products provided by the depository institution via an online platform that the person administers.

(b) The provisions of this Code section shall not apply to:

(1) A provider that is a federally insured depository financial institution;

(2) A provider that is:

(A) A subsidiary, an affiliate, or a holding company of a federally insured depository financial institution; or

(B) A service corporation for a federally insured depository financial institution;

(3) A provider that is regulated under the federal Farm Credit Act, *12 U.S.C. Section 2001*, et seq.;

(4) A provider that is licensed as a money transmitter in accordance with Article 4 of Chapter 1 of Title 7;

(5) A provider that consummates five or fewer commercial financing transactions in the state during any 12 month period;

(6) A commercial financing transaction secured by real property;

(7) A commercial financing transaction that is a lease as defined in *Code Section 11-2A-103*;

(8) A commercial financing transaction that is a purchase money obligation as defined in *Code Section 11-9-103*;

(9) A commercial financing transaction that:

(A) Involves a commercial loan or a commercial open-end credit plan;

(B) Is $50,000.00 or more; and

(C) Extends the commercial loan or the commercial open-end credit plan to:

(i) A motor vehicle dealer or the motor vehicle dealer's affiliate; or

(ii) A motor vehicle rental company as defined in *Code Section 40-2-167* or the motor vehicle rental company's affiliate;

(10) A commercial financing transaction offered by a person in connection with the sale or lease of a product or service that:

(A) The person manufactures, licenses, or distributes; or

(B) The person's parent company or any of such parent company's directly or indirectly owned and controlled subsidiaries manufactures, licenses, or distributes;

(11) A commercial financing transaction of more than $500,000.00; or

(12) A commercial financing product that is a factoring transaction, purchase, sale, advance, or similar of accounts receivables owed to a healthcare provider because of a patient's personal injury treated by the healthcare provider.

(c) For purposes of Chapter 1 of Title 7, a provider's characterization of an accounts receivable purchase transaction as a purchase shall be conclusive that the accounts receivable purchase transaction is not a loan or a transaction for the use, forbearance, or detention of money.

(d) For purposes of Chapter 1 of Title 7, a provider extending a specific offer for a commercial financing transaction on behalf of a depository institution shall not be construed to mean that the provider engaged in lending or financing or originated that loan or financing.

(e)

(1) Before consummating a commercial financing transaction, a provider shall disclose the terms of the commercial financing transaction in accordance with this Code section.

(2) Only one disclosure must be provided for each commercial financing transaction, and a disclosure is not required as a result of the modification, forbearance, or change to a consummated commercial financing transaction.

(3) A provider shall disclose the following information in connection with each commercial financing transaction:

(A) The total amount of funds provided to the business under the terms of the commercial financing transaction;

(B) The total amount of funds disbursed to the business under the terms of the commercial financing transaction, if less than the amount described in subparagraph (A) of this paragraph, as a result of any fees deducted or withheld at disbursement, any amount paid to the provider to satisfy a prior balance, and any amount paid to a third party on behalf of the business;

(C) The total amount to be paid to the provider under the terms of the commercial financing transaction;

(D) The total dollar cost of the commercial financing transaction, calculated by finding the difference between:

(i) The amount described in subparagraph (A) of this paragraph; and

(ii) The amount described in subparagraph (C) of this paragraph;

(E)

(i) The manner, frequency, and amount of each payment; or

(ii) If the amount of each payment may vary, the manner, frequency, and estimated amount of the initial payment; and

(F) A statement of whether there are any costs or discounts associated with prepayment under the commercial financing transaction, including a reference to the paragraph in the commercial financing transaction agreement that creates each cost or discount.

(4) The commercial financing transaction agreement shall include a description of the methodology for calculating any variable payment amount and the circumstances that may cause a payment amount to vary.

(5) The provisions of this subsection shall apply to any commercial financing transaction consummated on or after January 1, 2024.

(f) No broker shall:

(1) Assess, collect, or solicit an advance fee from a business to provide services as a broker; provided, however, that nothing contained in this paragraph shall preclude a broker from soliciting a potential business to pay for, or preclude a potential business from paying for, actual services necessary to apply for a commercial financing transaction, including, but not limited to, a credit check or an appraisal of security, where such payment is made by check or money order payable to a party independent of the broker;

(2) Make or use any false or misleading representations or omit any material fact in the offer or sale of the services of a broker or engage, directly or indirectly, in any act that operates or would operate as fraud or deception upon any person in connection with the offer or sale of the services of a broker, notwithstanding the absence of reliance by the buyer; or

(3) Make or use any false or deceptive representation in its business dealings.

(g) The Attorney General may:

(1) Receive and act on complaints;

(2) Take action designed to obtain voluntary compliance with this Code section; and

(3) Commence administrative or judicial proceedings on the Attorney General's own initiative to enforce compliance with this Code section.

(h) A person who violates a provision of this Code section is subject to a civil penalty of $500.00 per violation, not to exceed $20,000.00 for all violations arising from the use of the same transaction documentation or materials.

(i) A person who violates a provision of this Code section after receiving written notice of a prior violation is subject to a civil penalty of $1,000.00 per violation, not to exceed $50,000.00 for all violations arising from the use of the same transaction documentation or materials.

(j) Nothing in this Code section creates a private right of action against any person based on failure to comply with the provisions of this Code section.

(k) A violation of this Code section shall not affect the enforceability of any underlying agreement.

History

Code 1981, *§ 10-1-393.18*, enacted by *Ga. L. 2023, p. 255, § 2/SB 90*, effective January 1, 2024.

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O.C.G.A. § 10-1-393.19

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10-1-393.19. Requirements of unsolicited inquiries relating to the sale of real estate; penalties.

(a) Any unsolicited written inquiry or mailing by any person or entity that is not licensed or regulated pursuant to the provisions of Chapter 40 or Chapter 41 of Title 43 or Chapter 19 of Title 15 that expresses an interest in buying real property, or an option to buy real property, from the addressee or in buying the real property to which such written inquiry or mailing is addressed or that offers services relating to the sale of real estate shall include:

(1)

(A) At the top of and at least two inches apart from any other text on such written inquiry or mailing, the following notice in capital letters:

"THIS IS A SOLICITATION. THE SENDER IS CONTACTING YOU TO INQUIRE AS TO YOUR INTEREST IN SELLING YOUR HOME OR OTHER REAL ESTATE. YOU ARE UNDER NO OBLIGATION TO RESPOND."

(A.1)

(i) If the solicitation includes a monetary offer, following the text required in subparagraph (A) of this paragraph, the following notice in capital letters:

"THIS OFFER MAY OR MAY NOT BE THE FAIR MARKET VALUE OF THE PROPERTY."

(ii) If the solicitation includes a monetary offer less than the value of the previous year's assessed value for ad valorem taxation by the county tax assessor for the county in which the property is located, following the text required in subdivision (i) of this subparagraph, the following notice in capital letters:

"THIS OFFER IS LESS THAN THE COUNTY ASSESSED VALUE FOR THIS PROPERTY."

(B) No text contained in such solicitation shall be larger than the text required in subparagraph (A) of this paragraph.

(2) On the front of the envelope or, if there is no envelope, on the part of the written inquiry or mailing that bears the postage stamp or postage amount, the following notice in capital letters:

"SOLICITATION. YOU ARE UNDER NO OBLIGATION TO OPEN OR TO RESPOND."

(3) The notices required in paragraphs (1) and (2) of this subsection shall be:

(A) Of a font that is the same as the majority of the text of the written inquiry or mailing;

(B) Of a size which is no smaller than the text of the written inquiry or mailing, and in no event no smaller than 16 point font; and

(C) Displayed in a distinctly contrasting color.

10-1-393.19. Requirements of unsolicited inquiries relating to the sale of real estate; penalties.

(b) Failure to comply with the provisions of this Code section shall be considered an unfair or deceptive act or practice which is unlawful and shall therefore be punishable by the provisions of this part; provided, however, that, notwithstanding *Code Section 10-1-399*, a claim of a violation of this Code section may be brought in a representative capacity and may be the subject of a class action under *Code Section 9-11-23*; and provided, further, that damages for such violation shall be three times the actual damages sustained or $600.00 per violation, whichever is greater.

(c) Any person who violates the provisions of subsection (a) of this Code section shall be guilty of a misdemeanor.

History

Code 1981, *§ 10-1-393.19*, enacted by *Ga. L. 2023, p. 255, § 2/SB 90*, effective January 1, 2024; *Ga. L. 2024, p. 553, § 2-1/HB 1292*, effective May 2, 2024; *Ga. L. 2024, p. 1052, § 2(16)/SB 448*, effective July 1, 2024.

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O.C.G.A. § 10-1-393.20

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10-1-393.20. Prohibited acts relating to mortgage loan solicitations; penalty.

(a) As used in this Code section, the term:

(1) "Mortgage broker" shall have the same meaning as set forth in *Code Section 7-1-1000*.

(2) "Mortgage lender" shall have the same meaning as set forth in *Code Section 7-1-1000*.

(3) "Mortgage trigger lead" means a consumer report obtained pursuant to Section 604(c)(1)(B) of the federal *Fair Credit Reporting Act*, *15 U.S.C. Section 1681b*, where the issuance of the report is triggered by an inquiry made with a consumer reporting agency in response to an application for credit. Such term shall not include a consumer report on an applicant obtained by a mortgage lender or mortgage broker with which the applicant has initially applied for credit or which holds or services an existing extension of credit of the applicant who is the subject of the report.

(b) When using a mortgage trigger lead to solicit a consumer who has applied for a loan with another mortgage lender or mortgage broker, it shall be an unfair or deceptive act or practice to:

(1) Fail to state in the initial solicitation that the person is not affiliated with the mortgage lender or mortgage broker with which the consumer initially applied;

(2) Fail in the initial solicitation to conform to state and federal law relating to prescreened solicitations using consumer reports, including the requirement to make a firm offer of credit to the consumer;

(3) Use information regarding consumers who have opted out of the prescreened offers of credit or who have placed their contact information on the federal do-not-call registry; or

(4) Solicit a consumer with an offer of certain rates, terms, and costs with the knowledge that the rates, terms, or costs will be subsequently changed to the detriment of the consumer.

(c) Failure to comply with the provisions of this Code section shall be considered an unfair or deceptive act or practice which is unlawful and shall therefore be punishable by the provisions of this part.

History

Code 1981, *§ 10-1-393.20*, enacted by *Ga. L. 2025, p. 777, § 1/HB 240*, effective May 13, 2025.

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O.C.G.A. § 10-1-393.21

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10-1-393.21. Commercial cheating services prohibited; penalty.

(a) As used in this Code section, the term:

(1) "Assessment task" means any assignment, essay, thesis, dissertation, report, examination, project, or other assessable part of a course of study assigned or otherwise given to a student or examinee for credit.

(2) "Assignor" means:

(A) Any local school system or public school, private school, or home study program in this state;

(B) Any institution of the University System of Georgia or unit of the Technical College System of Georgia;

(C) Any organization that issues a professional license in this state; or

(D) Any employee or agent of such schools, programs, institutions, units, or organizations.

(3) "Commercial purpose" means a purpose relating to financial gain or other compensation.

(4) "For credit" means for evaluation by an assignor as a factor in the issuance of any grade, evaluation, degree, diploma, certification, certificate, credential, exam score, or professional license.

(5) "Home study program" means a home study program as defined in subsection (c) of *Code Section 20-2-690*.

(6) "Person" means any individual, partnership, firm, limited liability company, association, corporation, or other legal entity or unincorporated organization.

(7) "Private school" shall have the same meaning as private school set forth in subsection (b) of *Code Section 20-2-690*.

(8) "Student or examinee" means:

(A) Any student of a local school system or public school, a private school, or a home study program in this state;

(B) Any student of an institution of the University System of Georgia or a unit of the Technical College System of Georgia; or

(C) Any examinee for a professional license in this state.

(9) "Work product" means any written, electronic, recorded, pictorial, artistic, or other form of work.

(b) It shall be unlawful for any person, for a commercial purpose, to provide or otherwise cause to be provided any work product to a student or examinee in a substantially completed form that could, under the circumstances, reasonably be considered as being, or forming a part of, an assessment task.

(c) No disclaimer or contractual language between a person providing work product and a student or examinee shall exempt such person from the provisions of subsection (b) of this Code section.

(d) Any violation of subsection (b) of this Code section shall constitute an unfair or deceptive act or practice in the conduct of consumer transactions under Part 2 of Article 15 of this chapter, the "Fair Business Practices Act of 1975"; provided, however, that enforcement against such violations shall only be by public enforcement by the Attorney General pursuant to this part and shall not be enforceable through a private right of action under *Code Section 10-1-399*.

(e) Nothing in this Code section shall be construed to:

(1) Prohibit any person from providing tutorial assistance, research material, or general information to a student or examinee; or

(2) Prohibit any person from providing an automated system, software, or platform that generates specific responses to a student's or examinee's prompts; provided, however, that such responses shall not constitute a substantially completed assessment task and the primary purpose of such automated system, software, or platform is not the provision of assessment tasks.

History

Code 1981, *§ 10-1-393.21*, enacted by *Ga. L. 2025, p. 777, § 2/SB 213*, effective July 1, 2025.

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O.C.G.A. § 10-1-393.22

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10-1-393.22. Referral agencies for assisted living communities and personal care homes; regulation; disclosures; licensing.

(a) As used in this Code section, the term:

(1) "Assisted living community" means a personal care home with a minimum of 25 beds that is licensed as an assisted living community pursuant to *Code Section 31-7-3*.

(2) "Authorized representative" means an individual who is directly involved in the search for, is responsible for a resident entering into, or may become a party to an agreement for a resident to move into an assisted living community or personal care home.

(3) "Personal care home" means any dwelling, whether operated for profit or not, which undertakes through its ownership or management to provide or arrange for the provision of housing, food service, and one or more personal services for two or more adults who are not related to the owner or administrator by blood or marriage. Such term shall not include host homes, as such term is set forth in *Code Section 37-1-20*.

(4) "Personal services" means individual assistance with or supervision of self-administered medication and essential activities of daily living, including, but not limited to, eating, bathing, grooming, dressing, and toileting. Personal services shall not include medical, nursing, or health services; provided, however, that the department shall be authorized to grant a waiver of this provision in the same manner as provided for in *Code Section 31-7-12.3* for the waiver of rules and regulations and in the same manner and only to the same extent as granted on or before June 30, 2011.

(5) "Referral agency" means an individual or entity that provides referrals to an assisted living community or personal care home of a prospective resident for a fee that is collected from the assisted living community or personal care home. Such term shall not include:

(A) An assisted living community, personal care home, or its employees; or

(B) A resident or an authorized representative of a resident of an assisted living community or personal care home, regardless of whether such resident or authorized representative receives a discount or other remuneration from the assisted living community or personal care home, for referring a prospective resident.

(6) "Resident" means a living individual who is seeking, considering, or receiving housing in an assisted living community or personal care home.

(b) No later than the time that a referral agency makes a referral to an assisted living community or personal care home, such referral agency shall conspicuously disclose in a written, electronic, or verbal form to a prospective resident or his or her authorized representative:

(1) A description of the referral agency's services;

(2) The existence of any relationship between the referral agency and the assisted living community or personal care home, including common ownership or control of the residence, or financial, business,

management, contractual, or familial relationships between the referral agency and the assisted living community or personal care home;

(3) That the referral agency receives a fee from the assisted living community or personal care home for the referral;

(4) That the list of assisted living communities or personal care homes provided by the referral agency may not include all options that meet the prospective resident's stated preferences and needs; and

(5) That the prospective resident or his or her authorized representative may at any time terminate all services provided by the referral agency, including the use of a prospective resident's personal information, by providing a written or electronic notice of termination to the referral agency.

(c) A referral agency shall obtain from a prospective resident or his or her authorized representative a written, electronic, or verbal acknowledgment of receipt of the disclosure required in subsection (b) of this Code section in a physical or electronic form, which shall be retained by the referral agency. Such acknowledgment shall not create any contractual or exclusive relationship between the referral agency and the resident or his or her authorized representative and shall not prohibit a resident or his or her authorized representative from independently entering into a contract with or for any other assisted living community or personal care home.

(d) Referral agencies shall not charge or collect a fee from an assisted living community or personal care home:

(1) Unless the written, electronic, or verbal acknowledgment of receipt of the disclosure required by subsection (c) of this Code section is provided to the assisted living community or personal care home and the prospective resident or his or her authorized representative; or

(2) In the event that more than 24 months have elapsed between the date that the referral was made and the date that the resident moved into the assisted living community or personal care home; provided, however, that, if, after the initial 12 months from the date the referral was made, the assisted living community or personal care home has confirmed in writing that the prospective resident has not entered into an agreement to move into an assisted living community or personal care home that he or she was referred to, the referral agency shall resubmit a referral to the assisted living community or personal care home. Such resubmitted referral shall reactivate such referral for the remaining 12 months.

(e) A prospective resident or his or her authorized representative may at any time terminate all services provided by the referral agency, including the use of a prospective resident's personal information, by providing a written or electronic notice of termination to the referral agency.

(f) Enforcement of this Code section shall only be by public enforcement by the Attorney General pursuant to this part and shall not be enforceable through a private right of action under *Code Section 10-1-399*.

History

Code 1981, § 10-1-393.22, enacted by *Ga. L. 2026, p. 802, § 1/SB 439*, effective July 1, 2026.

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10-1-394. Adoption of rules, regulations, and standards prohibiting unfair or deceptive practices; application of Chapter 13 of Title 50.

(a) The Attorney General is authorized to adopt reasonable rules, regulations, and standards appropriate to effectuate the purposes of this part and prohibit specific acts or practices that are deemed to be a violation of this part. The Attorney General is also authorized to adopt as substantive rules that prohibit specific acts or practices in violation of *Code Section 10-1-393* those rules and regulations of the Federal Trade Commission interpreting Section 5(a)(1) of the Federal Trade Commission Act (*15 U.S.C. Section 45(a)(1)*), as from time to time amended.

(b) 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 subsection (a) of this Code section and in taking testimony pursuant to *Code Sections 10-1-403* and *10-1-404*.

History

Ga. L. 1975, p. 376, § 4; *Ga. L. 2015, p. 1088, § 2/SB 148*.

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10-1-395. Authority and duties of Attorney General; Consumer Advisory Board; relations with other regulatory agencies.

(a) The Attorney General shall have the necessary powers and authority to carry out the duties vested in him or her pursuant to this title. Any authority, power, or duty vested in the Attorney General by any provision of this title and *Code Section 46-5-27* may be exercised, discharged, or performed by any employee of the office of the Attorney General acting in the Attorney General's name and by his or her delegated authority. The Attorney General shall be responsible for the official acts of such persons who act in his or her name and by his or her authority.

(b)

(1) A Consumer Advisory Board is created whose duty it shall be to advise and make recommendations to the Attorney General. The board shall consist of 15 members. Appointments of members of this board made after July 1, 2015, shall be made by the Attorney General; however, the Attorney General shall not be an appointee. One member shall be appointed from each congressional district and the remaining members shall be appointed from the state at large. At least four members shall be attorneys representing consumers' interests and two of these consumers' attorneys shall represent Georgia Indigent Legal Services or any other legal aid society. At least four members shall be representatives of the business community, two of which are recommended by the Georgia Retail Association and two recommended for appointment by the Business Council of Georgia, Inc.

(2) All members appointed to the board by the Attorney General shall be appointed for terms of three years and until their successors are appointed and qualified. In the event of a vacancy during the term of any member by reason of death, resignation, or otherwise, the appointment of a successor by the Attorney General shall be for the remainder of the unexpired term of such member.

(3) The board shall elect its chairman and shall meet not less than once every four calendar months at a time and place specified in writing by the Attorney General. The board may also meet from time to time upon its own motion as deemed necessary by a majority of the members thereof for the purpose of conducting routine or special business. Each member of the board shall serve without pay but shall receive standard state per diem for expenses and receive standard travel allowance while attending meetings and while in the discharge of his or her responsibilities.

(4) The board shall assist the Attorney General in an advisory capacity in carrying out the duties and functions of the office concerning:

(A) Policy matters relating to consumer interests; and

(B) The effectiveness of the state consumer programs and operations.

(5) The board shall make recommendations concerning:

(A) The improvement of state consumer programs and operations;

(B) The elimination of duplication of effort;

(C) The coordination of state consumer programs and operations with other local and private programs related to consumer interests;

(D) Legislation needed in the area of consumer protection; and

(E) Avoidance of unnecessary burdens on business, if any, resulting from the administration of this part.

(c) The Attorney General shall receive all complaints under this part and shall refer all complaints or inquiries concerning conduct specifically approved or prohibited by the Department of Agriculture, Commissioner of Insurance, Public Service Commission, Department of Natural Resources, Department of Banking and Finance, or other appropriate agency or official of this state to that agency or official for initial investigation and corrective action other than litigation.

(d) Any official of this state receiving a complaint or inquiry as provided in subsection (c) of this Code section shall advise the Attorney General of his or her action with respect to the complaint or inquiry.

(e) All officials and agencies of this state having responsibility under this part are authorized and directed to consult and assist one another in maintaining compliance with this part.

(f) In the event a person holding a professional license as defined in Chapter 4 of Title 26 or in Title 43 shall be determined by the Attorney General to be operating a business or profession intentionally, persistently, and notoriously in a manner contrary to this part, the Secretary of State, at the instruction of the Attorney General, shall begin proceedings to revoke such professional license.

(g) The Attorney General shall not be authorized to exercise any powers granted in this part against a person regulated by an agency or department listed in subsection (c), subsection (d), or subsection (e) of this Code section with regard to conduct specifically approved or prohibited by such agency or department if such agency or department certifies to the Attorney General that the exercise of such powers would not be in the public interest.

(h) Nothing contained in this part shall be construed as repealing, limiting, or otherwise affecting the existing powers of the various regulatory agencies of the State of Georgia except that all agencies of this state, in making determinations as to whether actions or proposed actions of persons subject to their jurisdiction and control are in the public interest, shall consider the situation in the light of the policies expressed by this part.

History

Ga. L. 1975, p. 376, § 5; Ga. L. 1983, p. 743, § 1; Ga. L. 1984, p. 22, § 10; Ga. L. 1986, p. 855, § 2; Ga. L. 1987, p. 3, § 10; Ga. L. 1988, p. 426, § 1; *Ga. L. 2009, p. 453, § 2-6/HB 228*; *Ga. L. 2015, p. 1088, § 2/SB 148*.

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10-1-396. Acts exempt from part.

Nothing in this part shall apply to:

(1) Actions or transactions specifically authorized under laws administered by or rules and regulations promulgated by any regulatory agency of this state or the United States;

(2) Acts done by the publisher, owner, agent, or employee of a newspaper, periodical, radio station or network, or television station or network in the publication or dissemination in print or electronically of:

(A) News or commentary; or

(B) An advertisement of or for another person, when the publisher, owner, agent, or employee did not have actual knowledge of the false, misleading, or deceptive character of the advertisement, did not prepare the advertisement, or did not have a direct financial interest in the sale or distribution of the advertised product or service.

History

Ga. L. 1975, p. 376, § 6; *Ga. L. 2013, p. 613, § 2/HB 150*; *Ga. L. 2015, p. 1088, § 2/SB 148*.

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O.C.G.A. § 10-1-397

Current through the 2026 Regular and Special Sessions 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 — 38) > Article 15 Deceptive or Unfair Practices (Pts. 1 — 9) > PART 2 Fair Business Practices Act (§§ 10-1-390 — 10-1-408)

10-1-397. Cease and desist orders; civil penalty; judicial relief; receivers.

(a) As used in this Code section, the term:

(1) "Call" means any communication, message, signal, or transmission.

(2) "Telecommunications company" shall have the same meaning as provided in *Code Section 46-5-162*.

(3) "Telecommunications services" shall have the same meaning as provided in *Code Section 46-5-162*.

(b) Whenever it may appear to the Attorney General that any person is using, has used, or is about to use any method, act, or practice declared by this part or by regulations made under *Code Section 10-1-394* to be unlawful and that proceedings would be in the public interest, whether or not any person has actually been misled, the Attorney General may:

(1) Subject to notice and opportunity for hearing in accordance with *Code Section 10-1-398*, unless the right to notice is waived by the person against whom the sanction is imposed, take any or all of the following actions:

(A) Issue a cease and desist order prohibiting any unfair or deceptive act or practice against any person;

(B) Issue an order against a person who willfully violates this part, imposing a civil penalty of up to a maximum of $2,000.00 per violation; or

(C) Issue an order requiring a person whose actions are in violation of this part to pay restitution to any person or persons adversely affected by such actions; or

(2) Without regard as to whether the Attorney General has issued any orders under this Code section, upon a showing by the Attorney General in any superior court of competent jurisdiction that a person has violated or is about to violate this part, a rule promulgated under this part, or an order of the Attorney General, the court may enter or grant any or all of the following relief:

(A) A temporary restraining order or temporary or permanent injunction;

(B) A civil penalty of up to a maximum of $5,000.00 per violation of this part;

(C) A declaratory judgment;

(D) Restitution to any person or persons adversely affected by a defendant's actions in violation of this part;

(E) The appointment of a receiver, auditor, or conservator for the defendant or the defendant's assets; or

(F) Other relief as the court deems just and equitable.

(c) Unless the Attorney General determines that a person subject to this part designs quickly to depart from this state or to remove his or her property therefrom or to conceal himself or herself or his or her property therein or that there is immediate danger of harm to citizens of this state or of another state, the Attorney General shall, unless he or she seeks a temporary restraining order to redress or prevent an injury resulting from a violation of paragraph (20) of subsection (b) of *Code Section 10-1-393*, before initiating any proceedings as provided in this Code section, give notice in writing that such proceedings are contemplated and allow such person a reasonable opportunity to appear before the Attorney General and execute an assurance of voluntary compliance as provided in this part. The determination of the Attorney General under this subsection shall be final and not subject to judicial review.

(d) With the exception of consent judgments entered before any testimony is taken, a final judgment under this Code section shall be admissible as prima-facie evidence of such specific findings of fact as may be made by the court which enters the judgment in subsequent proceedings by or against the same person or his or her successors or assigns.

(e) When a receiver is appointed by the court pursuant to this part, he or she shall have the power to sue for, collect, receive, and take into his or her possession all the goods and chattels, rights and credits, moneys and effects, lands and tenements, books, records, documents, papers, choses in action, bills, notes, and property of every description derived by means of any practice declared to be illegal and prohibited by this part, including property with which such property has been mingled if it cannot be identified in kind because of such commingling, and to sell, convey, and assign the same and hold and dispose of the proceeds thereof under the direction of the court. In the case of a partnership or business entity, the receiver may, in the discretion of the court, be authorized to dissolve the business and distribute the assets under the direction of the court. The court shall have jurisdiction of all questions arising in such proceedings and may make such orders and judgments therein as may be required.

(f)

(1) Whenever the Attorney General issues a cease and desist order to any person regarding the use of a telephone number which when called automatically imposes a per-call charge or other costs to the consumer, other than a regular charge imposed for long distance service, including, but not limited to, a telephone number in which the local prefix is 976 or in which the long distance prefix is 900, the Attorney General may certify to the appropriate local or long distance telecommunications company responsible for billing consumers for the charges that billing for the charges or for certain of the charges should be suspended. The telecommunications company shall then suspend such billing with reasonable promptness to preserve the assets of consumers in accordance with the certification, without incurring any liability to any person for doing so. For the purposes of this Code section, “reasonable promptness to preserve the assets of consumers” shall mean to act as quickly as the telecommunications company would act to preserve its own assets, provided that the telecommunications company cannot be required to make any changes to its existing systems, technologies, or methods used for billing, other than any minimal procedural changes necessary to actually suspend the billing. The telecommunications company shall not be made a party to any proceedings under this part for complying with this requirement but shall have a right to be heard as a third party in any such proceedings.

(2) The suspension of billing under this subsection shall remain in effect until the Attorney General certifies to the telecommunications company that the matter has been resolved. The Attorney General shall certify to the telecommunications company with reasonable promptness when the matter has been resolved. In this certification, the Attorney General shall advise the telecommunications company to collect none of, all of, or any designated part of the billings in accordance with the documents or orders which resolved the matter. The telecommunications company shall collect or not collect the billings in the manner so designated and shall not incur any liability to any person for doing so.

(3) Nothing contained in this subsection shall limit or restrict the right of the telecommunications company to place its own restrictions, guidelines, or criteria, by whatever name denominated, upon the

use of such telecommunications services, provided such restrictions, guidelines, or criteria do not conflict with the provisions of this subsection.

History

Ga. L. 1975, p. 376, §§ 7, 8; Ga. L. 1986, p. 1046, § 3; Ga. L. 1988, p. 983, § 2; Ga. L. 1988, p. 1659, § 1; Ga. L. 1991, p. 1101, § 2; Ga. L. 1991, p. 1346, § 1; Ga. L. 1995, p. 1362, § 2; Ga. L. 2000, p. 136, § 10; Ga. L. 2001, p. 1245, § 2; *Ga. L. 2010, p. 114, § 5/HB 1345*; *Ga. L. 2010, p. 302, § 2/SB 368*; *Ga. L. 2015, p. 1088, § 2/SB 148*.

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O.C.G.A. § 10-1-397.1

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10-1-397.1. Initiation or intervention by Attorney General.

The Attorney General is authorized to initiate or intervene as a matter of right or otherwise appear in any federal court or administrative agency to implement the provisions of this article.

History

Code 1981, § 10-1-397.1, enacted by Ga. L. 2001, p. 1245, § 3; Ga. L. 2015, p. 1088, § 2/SB 148.

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Official Code of Georgia Annotated > TITLE 10 Commerce and Trade (Chs. 1 — 15) > CHAPTER 1 Selling and Other Trade Practices (Arts. 1 — 38) > Article 15 Deceptive or Unfair Practices (Pts. 1 — 9) > PART 2 Fair Business Practices Act (§§ 10-1-390 — 10-1-408)

10-1-398. Stay of cease and desist order; hearing.

(a) Any person receiving a cease and desist order from the Attorney General, and who demonstrates in any superior court of competent jurisdiction, after petition to the court and notice to the Attorney General, that such order will unlawfully cause him or her irreparable harm, shall receive a temporary stay of the order pending the court's review of that order. Such temporary stay shall not exceed 30 days, during which time the court will review the order to determine if an interlocutory stay will be issued pending a final judicial determination of the issues.

(b) Where the Attorney General has issued any order prohibiting any unfair or deceptive act or practice, he or she shall promptly send by certified or registered mail or statutory overnight delivery or by personal service to the person or persons so prohibited a notice of opportunity for hearing. Hearings shall be conducted pursuant to this Code section by the Attorney General or his or her designated representative. Such notice shall state:

(1) The order which has issued and which is proposed to be issued;

(2) The ground for issuing such order and proposed order;

(3) That the person to whom such notice is sent will be afforded a hearing upon request if such request is made within ten days after receipt of the notice; and

(4) That the person to whom such notice is sent may obtain a temporary stay of the order upon a showing of irreparable harm in any superior court of competent jurisdiction.

(c) Whenever a person requests a hearing in accordance with this Code section, there shall promptly be set a date, time, and place for such hearing and the person requesting such hearing shall be notified thereof. The date set for such hearings shall be within 15 days, but not earlier than five days after the request for hearing has been made, unless otherwise agreed to by the Attorney General and the person requesting the hearing.

(d) In the case of any hearing conducted under this Code section, the Attorney General or his or her designated representative may conduct the hearing.

(e) The Attorney General shall have authority to do the following:

(1) Administer oaths and affirmations;

(2) Sign and issue subpoenas;

(3) Rule upon offers of proof;

(4) Regulate the course of the hearing, set the time and place for continued hearings, and fix the time for filing briefs;

(5) Dispose of motions to dismiss for lack of agency jurisdiction over the subject matter or parties or for any other ground;

(6) Dispose of motions to amend or to intervene;

(7) Provide for the taking of testimony by deposition or interrogatory; and

(8) Reprimand or exclude from the hearing any person for any indecorous or improper conduct committed in the presence of the agency.

(f) Subpoenas shall be issued without discrimination between public and private parties. When a subpoena is disobeyed, any party may apply to the superior court of the county where the hearing is being heard for an order requiring obedience. Failure to comply with such order shall be cause for punishment as for contempt of court. The costs of securing the attendance of witnesses, including fees and mileage, shall be computed and assessed in the same manner as prescribed by law in civil cases in the superior court.

(g) A record shall be kept in each contested case and shall include:

(1) All pleadings, motions, and intermediate rulings;

(2) A summary of the oral testimony plus all other evidence received or considered except that oral proceedings or any part thereof shall be transcribed or recorded upon request of any party. Upon written request therefor, a transcript of the oral proceedings or any part thereof shall be furnished to any party of the proceedings. The Attorney General shall set a uniform fee for such service;

(3) A statement of matters officially noticed;

(4) Questions and offers of proof and rulings thereon;

(5) Proposed findings and exceptions;

(6) Any decision, including any initial, recommended, or tentative decision, opinion, or report by the officer presiding at the hearing; and

(7) All staff memoranda or data submitted to the hearing officer or members of the agency in connection with their consideration of the case.

(h) Findings of fact shall be based exclusively on the evidence and on matters officially noticed.

(i) If the Attorney General does not receive a request for a hearing within the prescribed time where he or she has issued an order prohibiting any unfair or deceptive act or practices, he or she may permit an order previously entered to remain in effect or he or she may enter a proposed order. If a hearing is requested and conducted as provided in this Code section, the Attorney General shall issue a written order which shall:

(1) Set forth his or her findings with respect to the matters involved; and

(2) Enter an order in accordance with his or her findings.

(j) The Attorney General may promulgate such procedural rules and regulations as may be necessary for the effective administration of the authority granted to the Attorney General under this Code section.

History

Code 1981, *§ 10-1-398*, enacted by Ga. L. 1988, p. 1659, § 2; Ga. L. 2000, p. 1589, § 4; *Ga. L. 2015, p. 1088, § 2/SB 148*; *Ga. L. 2017, p. 774, § 10/HB 323*.

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10-1-398.1. Judicial review.

Any person who has exhausted all administrative remedies available and who is aggrieved by a final decision in a contested case is entitled to judicial review in accordance with the procedures, standards, and requirements set forth in *Code Section 50-13-19*.

History

Code 1981, *§ 10-1-398.1*, enacted by Ga. L. 1988, p. 1659, § 3; *Ga. L. 2015, p. 1088, § 2/SB 148*.

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10-1-399. Civil actions for violations; remedies.

(a) Except as otherwise provided, any person who suffers injury or damages as a result of a violation of Chapter 5B of this title, as a result of consumer acts or practices in violation of this part, as a result of office supply transactions in violation of this part or whose business or property has been injured or damaged as a result of such violations may bring an action individually, but not in a representative capacity, against the person or persons engaged in such violations under the rules of civil procedure to seek equitable injunctive relief and to recover his or her general and exemplary damages sustained as a consequence thereof in any court having jurisdiction over the defendant; provided, however, that exemplary damages shall be awarded only in cases of intentional violation. Notwithstanding any other provisions of law, a debtor seeking equitable relief to redress an injury resulting from a violation of paragraph (20) of subsection (b) of *Code Section 10-1-393*, upon facts alleged showing a likelihood of success on the merits, may not, within the discretion of the court, be required to make a tender. Nothing in this subsection or paragraph (20) of subsection (b) of *Code Section 10-1-393* shall be construed to interfere with the obligation of the debtor to a lender who is not in violation of paragraph (20) of subsection (b) of *Code Section 10-1-393*. A claim under this Code section may also be asserted as a defense, setoff, cross-claim, or counterclaim or third-party claim against such person.

(b) At least 30 days prior to the filing of any such action, a written demand for relief, identifying the claimant and reasonably describing the unfair or deceptive act or practice relied upon and the injury suffered, shall be delivered to any prospective respondent. Any person receiving such a demand for relief who, within 30 days of the delivering of the demand for relief, makes a written tender of settlement which is rejected by the claimant may, in any subsequent action, file the written tender and an affidavit concerning this rejection and thereby limit any recovery to the relief tendered if the court finds that the relief tendered was reasonable in relation to the injury actually suffered by the petitioner. The demand requirements of this subsection shall not apply if the prospective respondent does not maintain a place of business or does not keep assets within the state. The 30 day requirement of this subsection shall not apply to a debtor seeking a temporary restraining order to redress or prevent an injury resulting from a violation of paragraph (20) of subsection (b) of *Code Section 10-1-393*, provided that said debtor gives, or attempts to give the written demand required by this subsection at least 24 hours in advance of the time set for the hearing of the application for the temporary restraining order. Such respondent may otherwise employ the provisions of this Code section by making a written offer of relief and paying the rejected tender into court as soon as practicable after receiving notice of an action commenced under this Code section. All written tenders of settlement such as described in this subsection shall be presumed to be offered without prejudice in compromise of a disputed matter.

(c) Subject to subsection (b) of this Code section, a court shall award three times actual damages for an intentional violation.

(d) If the court finds in any action that there has been a violation of this part, the person injured by such violation shall, in addition to other relief provided for in this Code section and irrespective of the amount in controversy, be awarded reasonable attorneys' fees and expenses of litigation incurred in connection with said action; provided, however, that the court shall deny a recovery of attorneys' fees and expenses of

litigation which are incurred after the rejection of a reasonable written offer of settlement made within 30 days of the mailing or delivery of the written demand for relief required by this Code section; provided, further, that, if the court finds the action continued past the rejection of such reasonable written offer of settlement in bad faith or for the purposes of harassment, the court shall award attorneys' fees and expenses of litigation to the adverse party. Any award of attorneys' fees and expenses of litigation shall become a part of the judgment and subject to execution as the laws of Georgia allow.

(e) Any manufacturer or supplier of merchandise whose act or omission, whether negligent or not, is the basis for action under this part shall be liable for the damages assessed against or suffered by retailers charged under this part. A claim of such liability may be asserted by cross-claim, third-party complaint, or by separate action.

(f) It shall not be a defense in any action under this part that others were, are, or will be engaged in like practices.

(g) In any action brought under this Code section the Attorney General shall be served by certified or registered mail or statutory overnight delivery with a copy of the initial complaint and any amended complaint within 20 days of the filing of such complaint. The Attorney General shall be entitled to be heard in any such action, and the court where such action is filed may enter an order requiring any of the parties to serve a copy of any other pleadings in an action upon the Attorney General.

History

Ga. L. 1975, p. 376, § 10; Ga. L. 1985, p. 642, § 1; Ga. L. 1986, p. 1046, § 4; Ga. L. 1987, p. 794, § 3; Ga. L. 1988, p. 983, § 3; Ga. L. 1996, p. 231, § 2; Ga. L. 2000, p. 1589, § 4; *Ga. L. 2015, p. 1088, § 2/SB 148*; *Ga. L. 2024, p. 1052, § 2(17)/SB 448*, effective July 1, 2024; *Ga. L. 2025, p. 777, § 3/SB 213*, effective July 1, 2025.

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O.C.G.A. § 10-1-400

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10-1-400. Limitation on recovery in case of bona fide error.

In any action in which damages are demanded under *Code Section 10-1-399*, recovery will be limited to the amount, if any, by which the injured party suffered injury or damage caused by the violation if the adverse party proves that the violation resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adopted to avoid any such error and that such error was not the result of negligence in the maintenance of such procedures.

History

Ga. L. 1975, p. 376, § 11; *Ga. L. 2015, p. 1088, § 2/SB 148*.

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10-1-401. Limitation of actions; right to set off damages or penalties not limited.

(a) No private right of action shall be brought under this part:

(1) More than two years after the person bringing the action knew or should have known of the occurrence of the alleged violation; or

(2) More than two years after the termination of any proceeding or action by the State of Georgia, whichever is later.

(b) Damages or penalties to which a person is entitled pursuant to this part may be set off against the allegation of the person to the seller and may be raised as a defense to a suit on the obligation without regard to the time limitations prescribed by this Code section.

History

Ga. L. 1975, p. 376, § 17; *Ga. L. 2015, p. 1088, § 2/SB 148*.

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O.C.G.A. § 10-1-402

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10-1-402. Assurances of voluntary compliance.

In the administration of this part the Attorney General may accept an assurance of voluntary compliance with respect to any act or practice deemed to be violative of this part from any person who has engaged or was about to engage in such act or practice. Any such assurance shall be in writing and be filed with the clerk of the superior court of the county in which the alleged violator resides or has his or her principal place of business or with the clerk of the Superior Court of Fulton County. Such assurance of voluntary compliance shall not be considered an admission of violation for any purpose. Matters thus processed may at any time be reopened by the Attorney General for further proceedings in the public interest, pursuant to *Code Section 10-1-397*. This Code section shall not bar any claim against any person who has engaged in any act or practice in violation of this part.

History

Ga. L. 1975, p. 376, § 12; *Ga. L. 2015, p. 1088, § 2/SB 148*.

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10-1-403. Investigations; demands for evidence.

(a) When it reasonably appears to the Attorney General that a person has engaged in, is engaging in, or is about to engage in any act or practice declared to be unlawful by this part or when he believes it to be in the public interest that an investigation should be made to ascertain whether a person in fact has engaged in, is engaging in, or is about to engage in any act or practice declared to be unlawful by this part, he may execute in writing and cause to be served upon any person who is believed to have information, documentary material, or physical evidence relevant to the alleged or suspected violation an investigative demand requiring such person to furnish, under oath or otherwise, a report in writing setting forth the relevant facts and circumstances of which he has knowledge or to appear and testify or to produce relevant documentary material or physical evidence for examination at such reasonable time and place as may be stated in the investigative demand, concerning the advertisement, sale, or offering for sale of any goods or services or the conduct of any trade or commerce that is the subject matter of the investigation.

(b) If a matter that the Attorney General makes the subject of an investigative demand is located outside the state, the person receiving the investigative demand may either make it available to the Attorney General at a convenient location within this state or pay the reasonable and necessary expenses for the Attorney General or his or her representative to examine the matter at the place where it is located. The Attorney General may designate representatives, including officials of the state in which the matter is located, to inspect the matter on his or her behalf, and may respond to similar requests from officials of other states.

(c)

(1) Each such investigative demand shall state the nature of the conduct constituting the alleged violation of this part which is under investigation and the provision of law applicable thereto; describe the class or classes of documentary material to be produced thereunder with such definiteness and certainty as to permit such material to be fairly identified; describe the nature, scope, and purpose of the investigation with such definiteness and certainty as to permit any person whose testimony is sought to be fairly appraised of the subject matter of the inquiry; prescribe a return date which will provide a reasonable period of time within which the material so demanded may be assembled and made available for inspection and copying or reproduction and the person or persons whose testimony is sought may prepare for the same; and identify the person to whom such material shall be made available.

(2) No such investigative demand shall:

(A) Contain any requirement which would be held to be unreasonable as contained in a subpoena for the production of documentary evidence issued by a court of this state in aid of a grand jury investigation of such alleged violation; or

(B) Require the production of any documentary evidence or oral testimony which would be privileged from disclosure if demanded by a subpoena for the production of documentary evidence issued by a court of this state in aid of a grand jury investigation of such alleged violation;

provided, however, that the limitations on the scope of demand contained in this paragraph do not require as a condition to the issuance of an investigative demand that the alleged violation be of sufficient seriousness as to constitute a violation of the criminal laws of this state, as opposed to the civil provisions of this part.

History

Ga. L. 1975, p. 376, § 13; Ga. L. 1988, p. 1659, § 4; *Ga. L. 2015, p. 1088, § 2/SB 148*.

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10-1-404. Attorney General's subpoena and hearing powers; procedural rules; court enforcement orders; self-incrimination; confidentiality.

(a) To carry out the duties prescribed by *Code Sections 10-1-394*, *10-1-395*, *10-1-397*, *10-1-398*, and *10-1-403*, the Attorney General, in addition to other powers conferred upon him or her by this part, may issue subpoenas to any person, administer an oath or affirmation to any person, conduct hearings in aid of any investigation or inquiry, prescribe such forms, and promulgate such procedural rules and regulations as may be necessary, which procedural rules and regulations shall have the force of law.

(b) The recipient of an investigative demand or subpoena may file an objection with the Attorney General within the reasonable time allotted for responding on grounds that it fails to comply with this part or upon any constitutional or other legal right or privilege of such person. Upon failure of a person without lawful excuse to obey an investigative demand or subpoena, the Attorney General may apply to a superior court having jurisdiction for an order compelling compliance. The court may issue an order directing compliance with the original demand or subpoena or modifying or setting aside such demand or subpoena based on any objection that was raised before the Attorney General.

(c) The Attorney General may request that a natural person who refuses to testify or to produce relevant matter on the ground that the testimonial matter may incriminate him be ordered by the court to provide the testimonial matter. With the exception of a prosecution for perjury and an action under *Code Section 10-1-397*, *10-1-398*, *10-1-399*, or *10-1-405*, a natural person who complies with the court order to provide a testimonial matter after asserting a privilege against self-incrimination to which he is entitled by law shall not be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may testify or produce evidence, documentary or otherwise.

(d)

(1) Information obtained pursuant to investigative demands, subpoenas, oaths, affirmations, or hearings enforced by this part shall not be made public or, except as authorized in paragraph (2) of this subsection, disclosed by the Attorney General or his or her employees beyond the extent necessary for the enforcement of this part.

(2) The Attorney General or his or her employees shall be authorized to provide to any federal, state, or local law enforcement agency any information acquired under this part which is sought pursuant to an investigative demand or subpoena by such agency. State or local law enforcement agencies shall be authorized to provide any information to the Attorney General when the Attorney General issues an investigative demand or subpoena for such information.

History

Ga. L. 1975, p. 376, § 14; Ga. L. 1984, p. 441, § 1; Ga. L. 1988, p. 1659, § 5; *Ga. L. 2015, p. 1088, § 2/SB 148*.

10-1-404. Attorney General’s subpoena and hearing powers; procedural rules; court enforcement orders; self-incrimination; confidentiality.

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10-1-405. Civil penalties; individual liability.

(a) Any person who violates the terms of an injunction issued under *Code Section 10-1-397* shall forfeit and pay to the state a civil penalty of not more than $25,000.00 per violation. For purposes of this Code section, the superior court issuing an injunction shall retain jurisdiction and the cause shall be continued and in such cases the Attorney General, acting in the name of the state, may petition for recovery of civil penalties.

(b) In the case of a continuing violation under this part, each day shall be regarded as a separate violation.

(c) Any intentional violation by a corporation, partnership, or association shall be deemed to be also that of the individual directors, officers, partners, employees, or agents of the corporation, partnership, or association who knew or should have known of the acts constituting the violation and who directly authorized, supervised, ordered, or did any of the acts constituting in whole or in part the violation; provided, however, that no such individual directors, officers, partners, employees, or agents shall have any individual liability under this subsection unless the corporation, partnership, or association, as the case may be, which has committed the intentional violation shall fail to pay into the court within 30 days after judgment sufficient moneys or assets to satisfy the judgment.

(d) The Attorney General shall have the authority to compromise or settle claims for penalty brought under this Code section.

History

Ga. L. 1975, p. 376, § 15; Ga. L. 1988, p. 1659, § 6; *Ga. L. 2015, p. 1088, § 2/SB 148*; *Ga. L. 2024, p. 1052, § 2(18)/SB 448*, effective July 1, 2024.

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O.C.G.A. § 10-1-406

Current through the 2026 Regular and Special Sessions 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 — 38) > Article 15 Deceptive or Unfair Practices (Pts. 1 — 9) > PART 2 Fair Business Practices Act (§§ 10-1-390 — 10-1-408)

10-1-406. Prosecution of criminal conduct revealed through investigation.

Whenever an investigation has been conducted under this article and such investigation reveals conduct which constitutes a criminal offense, the Attorney General shall have the authority to prosecute the case or forward the results of such investigation to a prosecuting attorney of this state who shall commence any criminal prosecution that such prosecuting attorney deems appropriate.

History

Ga. L. 1975, p. 376, § 16; Ga. L. 1997, p. 1507, § 3; *Ga. L. 2015, p. 1088, § 2/SB 148*.

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O.C.G.A. § 10-1-407

Current through the 2026 Regular and Special Sessions 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 — 38) > Article 15 Deceptive or Unfair Practices (Pts. 1 — 9) > PART 2 Fair Business Practices Act (§§ 10-1-390 — 10-1-408)

10-1-407. Part not exclusive.

This part is cumulative with other laws and is not exclusive. The rights or remedies provided for in this part shall be in addition to any other procedures, rights, remedies, or duties provided for in any other law or in decisions of the courts of this state dealing with the subject matter.

History

Ga. L. 1975, p. 376, § 19; *Ga. L. 2015, p. 1088, § 2/SB 148*.

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O.C.G.A. § 10-1-408

Current through the 2026 Regular and Special Sessions 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 — 38) > Article 15 Deceptive or Unfair Practices (Pts. 1 — 9) > PART 2 Fair Business Practices Act (§§ 10-1-390 — 10-1-408)

10-1-408. 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, *§ 10-1-408*, enacted by *Ga. L. 2015, p. 1088, § 2/SB 148*.

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