

CHAPTER NO. 650

HOUSE BILL NO. 2817

By Representative Kisber

Substituted for: Senate Bill No. 2956

By Senator Cooper

AN ACT to amend Tennessee Code Annotated, Title 56, relative to prohibited practices in the property and casualty insurance industry.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 56, Chapter 7, Part 11, is amended by adding the following language as new, appropriately designated sections.

SECTION _____. The General Assembly finds that the acts and practices prohibited in this act are unfair, deceptive, and/or fraudulent. Such practices cause the insurer to incur higher costs and to pay a greater amount of claims than would be the case in the absence of such practices; unreasonably interfere with the contract of insurance between the insurer and the insured; and unfairly increase the risk assumed by the insurer.

SECTION _____. (a) It is an unfair, deceptive, and/or fraudulent act for any person or entity engaged in automobile glass replacement or glass repair services or the provision of automobile glass products to knowingly:

(1) Offer to finance payment of the customer's deductible on terms different from terms offered to customers not making an insurance claim;

(2) Engage in a pattern or practice, on more than an occasional or isolated instance, of promising or offering to provide any credit, incentive, gift, rebate or special financing arrangement in satisfaction of all or part of an insurance deductible and/or co-payment owed by an insured under a policy of insurance;

(3) Advertise, promote, or represent by any media, tele-marketers or others, that services are "free," if in fact an insurer will pay for the service and/or advertise or make offers for the purpose of soliciting a claim against a property or casualty insurance carrier; or

(4) Engage in a pattern or practice, on more than an occasional or isolated instance of offering to defer collection of, discount, or issue a repayment of a customer's deductible based in whole, or in part, on the availability of insurance coverage.

(b) Any person or entity who suffers an economic loss as a result of the violation of this section may bring an action to recover actual damages in a court of competent

jurisdiction in the county where the violation occurred or in any county where the defendant resides or conducts, transacts, or has transacted business.

SECTION _____. (a) Any insurance company processing a claim submitted on behalf of an insured by a person who is engaged in automobile glass replacement or glass repair services or the provision of automobile glass products to whom the insured has assigned benefits under an insurance policy may refuse payment of any claim which involves an unfair, deceptive and/or fraudulent practice as provided in this act.

(b) When there is reason to believe such practices may have occurred, insurance companies may require verified proof that the insured has, in fact, fully incurred and paid any deductible and/or co-payment required under the insurance policy.

SECTION _____. A violation of this act shall also constitute a violation of the Consumer Protection Act, in Title 47, Chapter 18, Part 1, subject only to the civil remedies provided in such part, including treble damages and attorneys fees.

SECTION 2. The various provisions of this act are severable, and if any section, clause or provision is adjudged to be unconstitutional or invalid for any reason, such invalidation shall be confined to the section, clause or provision so held unconstitutional or invalid, and shall not affect or impair the operation and validity of the remaining sections or provisions.

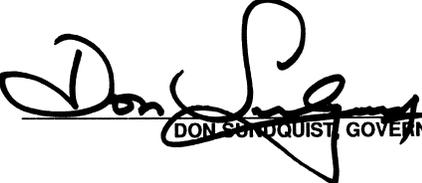
SECTION 3. This act shall take effect July 1, 2000, the public welfare requiring it.

PASSED: March 30, 2000


JIMMY RAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES


JOHN S. WILDER
SPEAKER OF THE SENATE

APPROVED this 10th day of April 2000


DON SUNDQUIST, GOVERNOR