

SENATE BILL NO. 395

BY SENATORS CLOUD, FESI, HEWITT, JOHNS, MILLIGAN, ROBERT MILLS, MIZELL, REESE AND WHITE AND REPRESENTATIVES AMEDEE, BACALA, BUTLER, CARRIER, CREWS, DEVILLIER, EDMONDS, EMERSON, FIRMENT, FRIEMAN, GAROFALO, GOUDEAU, HARRIS, HORTON, MIKE JOHNSON, MCCORMICK, CHARLES OWEN, PRESSLY, ROMERO, SCHAMERHORN, SEABAUGH, STEFANSKI AND THOMAS

1 AN ACT

2 To enact R.S. 51:1407(F) and 1429, relative to unfair or deceptive acts or practices; to allow
3 the attorney general to be awarded certain costs and fees; to provide relative to
4 advertisement for services; to provide relative to a false, misleading, and deceptive
5 statement in an advertisement; to provide for violations, actions, and penalties; to
6 provide for definitions, terms, conditions, and procedures; and to provide for related
7 matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 51:1407(F) and 1429 are hereby enacted to read as follows:

10 §1407. Restraining prohibited acts

11 * * *

12 **F. In any action brought by the attorney general, wherein the state**
13 **prevails, the court shall, in addition to the relief granted pursuant to this**
14 **Chapter, award reasonable costs, investigative expenses, and attorney fees to the**
15 **attorney general.**

16 * * *

17 **§1429. Unfair or deceptive trade practice or act; misleading assertion of**
18 **monetary result obtained**

1 A. As used in this Section, the following words and phrases shall have the
2 following meanings:

3 (1) "Actually received" means the net amount of money received by a
4 person, calculated by deducting from the person's gross recovery all expenses
5 including but not limited to attorney fees, broker fees, expert witness fees,
6 interest, court costs, costs of collection or recovery, and all other expenses
7 related to litigation.

8 (2) "Advertisement" means any communication to the public regarding
9 services provided for a fee including but not limited to a communication
10 transmitted through any of the following:

11 (a) Print media, such as a telephone directory, legal directory,
12 newspaper, magazine, or other periodical publication.

13 (b) Outdoor advertising, such as billboards and other signs.

14 (c) Radio and television commercials.

15 (d) Any communication accessed by a computer, tablet, or handheld
16 device, such as a text message, instant message, or digital advertisement of any
17 kind.

18 (e) A recorded message the public may access by telephone.

19 (3) "False, misleading, or deceptive statement" means any
20 communication that states or infers that a person actually received an amount
21 of money that they did not actually receive.

22 (4) "Media entity" means a radio broadcast station, television broadcast
23 station, cable television company, newspaper company, periodical company,
24 billboard company, advertisement agency, media platform, or bona fide news
25 or public interest website operator.

26 (5) "Monetary result obtained" means any amount claimed to have been
27 recovered on behalf of a client through a legal judgment or settlement.

28 (6) "Person" means an individual, partnership, unincorporated
29 association of individuals, joint stock company, corporation, limited liability
30 company, or other legal entity of any kind. "Person" shall not include a media

1 entity.

2 B. No person in any advertisement shall make, or permit to be made, a
3 false, misleading, or deceptive statement about a monetary result obtained on
4 behalf of a client or fail to disclose information necessary to prevent the
5 information supplied in an advertisement from being false, misleading, or
6 deceptive.

7 C.(1) Any violation of this Section shall be an unfair or deceptive trade
8 practice declared unlawful by this Chapter and shall subject the violator to any
9 and all actions and penalties provided for in this Chapter.

10 (2) For the purpose of this Section, each iteration of an advertisement
11 constitutes an unfair or deceptive trade practice.

12 (3)(a) The provisions of this Section shall not apply to any media entity
13 responsible for the production or publication of any advertisement found to be
14 in violation of this Section.

15 (b) The carriage, distribution, transmission, or display of any
16 advertisement, including but not limited to those for legal services, by a media
17 entity shall not be considered a violation of this Section.

18 D. In addition to all other remedies provided for in this Chapter, any
19 person who is found to have made, or to have permitted to be made on his
20 behalf, a false, misleading, or deceptive statement under the provisions of this
21 Section shall be liable to the attorney general for all costs, expenses, and fees
22 related to investigations and proceedings associated with the violation, including
23 attorney fees. An action to recover costs, expenses, fees, and attorney fees shall
24 be ancillary to and shall be filed and heard in the same court as a civil action
25 filed under the provisions of this Section.

26 E. The remedies and rights provided for in this Section are in addition
27 to and shall not preclude any right or remedy otherwise authorized by law,
28 including the enforcement of professional rules against the person by any
29 licensing board or court. If a licensing board or court adopts a comparable rule
30 and a process for approval of advertisements, then the approval of an

1 **advertisement under that rule and process shall constitute prima facie evidence**
2 **of compliance with the provisions of this Section.**

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____