**South Carolina General Assembly**

118th Session, 2009-2010

**H. 4668**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Neilson, McLeod, Williams, Jefferson, Whipper, R.L. Brown, Clyburn, Hodges and J.H. Neal

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Introduced in the House on March 3, 2010

Currently residing in the House Committee on **Judiciary**

Summary: Unfair trade practice

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

3/3/2010 House Introduced and read first time [HJ](file:///h:\HJ%20Archive\2010\03-03-10.docx)‑2

3/3/2010 House Referred to Committee on **Judiciary** [HJ](file:///h:\HJ%20Archive\2010\03-03-10.docx)‑2

**VERSIONS OF THIS BILL**

[3/3/2010](file:///p:\pprever\2009-10\4668_20100303.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 39‑5‑142 SO AS TO PROVIDE THAT IN AN ACTION FOR AN UNFAIR TRADE PRACTICE BROUGHT BY A PERSON WHO IS SIXTY‑FIVE YEARS OF AGE OR OLDER, A VULNERABLE ADULT, OR HANDICAPPED, THE PERSON MAY BE AWARDED UP TO FIVE THOUSAND DOLLARS IN ADDITION TO OTHER DAMAGES AND REMEDIES WHERE CERTAIN FINDINGS ARE MADE AND TO PROVIDE FOR THE AWARDING OF COURT COSTS AND ATTORNEY’S FEES.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 1, Chapter 5, Title 39 of the 1976 Code is amended by adding:

“Section 39‑5‑142. (A) As part of an action brought under this article for an unfair trade practice, a person who is sixty‑five years of age or older, a vulnerable adult, as defined in Section 43‑35‑10, or handicapped, as defined in Section 2‑7‑35, may seek and be awarded, in addition to the damages and remedies specified in this article, up to five thousand dollars where the trier of fact:

(1) finds that the person has suffered substantial physical, emotional, or economic damage resulting from the defendant’s conduct;

(2) makes an affirmative finding in regard to one or more of these factors:

(a) whether the defendant knew or should have known that his or her conduct was directed to one or more persons who are sixty‑five years of age or older, vulnerable adults, or handicapped;

(b) whether the defendant’s conduct caused the person to suffer:

(i) loss or encumbrance of a primary residence, principal employment, or source of income;

(ii) substantial loss of property set aside for retirement or for personal or family care and maintenance; or

(iii) substantial loss of payments received under a pension or retirement plan or a government benefits program or assets essential to the health or welfare of these persons; or

(c) whether the person is substantially more vulnerable than other members of the public to the defendant’s conduct because of age, poor health or infirmity, impaired understanding, restricted mobility, or disability and actually suffered substantial physical, emotional, or economic damage resulting from the defendant’s conduct; and

(3) finds that an additional award is appropriate.

(B) The court shall award court costs and attorney’s fees to a prevailing plaintiff in litigation filed pursuant to this section. Reasonable attorney’s fees may be awarded to a prevailing defendant upon a finding by the court that the plaintiff’s prosecution of the action was not in good faith.”

SECTION 2. This act takes effect upon approval by the Governor.

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