

§ 20-308.16. Powers of Commissioner.

(a) The Commissioner shall promote the interests of the retail buyer of motor vehicles.

(b) The Commissioner shall have power to prevent unfair or deceptive acts or practices and other violations of this Article. Any franchised new motor vehicle dealer who believes that a captive finance source with whom the dealer does business in North Carolina has violated or is currently violating any provision of this Article may file a petition before the Commissioner setting forth the factual and legal basis for such violations. The Commissioner shall promptly forward a copy of the petition to the named captive finance source requesting a reply to the petition within 30 days. Allowing for sufficient time for the parties to conduct discovery, the Commissioner or his designee shall then hold an evidentiary hearing and render findings of fact and conclusions of law based on the evidence presented.

(c) The Commissioner shall have the power in hearings arising under this Article to enter scheduling orders and limit the time and scope of discovery; to determine the date, time, and place where hearings are to be held; to subpoena witnesses; to take depositions of witnesses; and to administer oaths.

(d) The Commissioner may, whenever he shall believe from evidence submitted to him that any person has been or is violating any provision of this Article, in addition to any other remedy, bring an action in the name of the State against that person and any other persons concerned or in any way participating in, or about to participate in, practices or acts so in violation, to enjoin any persons from continuing the violations.

(e) The Commissioner may issue rules and regulations to implement the provisions of this section and to establish procedures related to administrative proceedings commenced under this section.

(f) In the event that a dealer, who is permitted or required to file a notice, protest, or petition before the Commissioner within a certain period of time in order to adjudicate, enforce, or protect rights afforded the dealer under this Article, voluntarily elects to appeal a policy, determination, or decision of the captive finance source through an appeals board or internal grievance procedure of the captive finance source, or to participate in or refer the matter to mediation, arbitration, or other alternative dispute resolution procedure or process established or endorsed by the captive finance source, the applicable period of time for the dealer to file the notice, protest, or petition before the Commissioner under this Article shall not commence until the captive finance source's appeal board or internal grievance procedure, mediation, arbitration, or appeals process of the captive finance source has been completed and the dealer has received notice in writing of the final decision or result of the procedure or process. Nothing, however, contained in this subsection shall be deemed to require that any dealer exhaust any internal grievance or other alternative dispute process required or established by the captive finance source before seeking redress from the Commissioner as provided in this Article. (2005-409, s. 3.)