

1 A bill to be entitled
 2 An act relating to consumer protection; creating part XII
 3 of chapter 559, F.S.; prohibiting certain third-party
 4 sellers from engaging in certain transactions over the
 5 Internet with consumers engaged in transactions with
 6 certain merchants except under certain circumstances;
 7 requiring certain disclosures to consumers; requiring a
 8 consumer's express informed consent for charges;
 9 authorizing consumers to cancel goods and services and
 10 avoid charges; prohibiting certain merchants from
 11 disclosing certain consumer information to certain third-
 12 party sellers; providing mechanisms for consumers to stop
 13 recurring charges; providing an effective date.

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 15 Be It Enacted by the Legislature of the State of Florida:

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 17 Section 1. Part XII of chapter 559, Florida Statutes,
 18 consisting of section 559.951, is created to read:

19 PART XII

20 MISCELLANEOUS PROVISIONS

21 559.951 Internet sales; prohibited practices.—

22 (1) As used in this section, the term:

23 (a) "Initial merchant" means a person who obtains a
 24 consumer's billing information directly from the consumer
 25 through an Internet transaction initiated by the consumer.

26 (b) "Posttransaction third-party seller" means a person
 27 who:

28 1. Sells or offers for sale any good or service over the

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29 Internet; and

30 2. Solicits the purchase of such goods or services over
31 the Internet from an initial merchant after the consumer has
32 initiated a transaction with the initial merchant.

33
34 The term does not include the initial merchant, a subsidiary or
35 corporate affiliate of the initial merchant, or a successor of
36 the initial merchant.

37 (2) A posttransaction third-party seller may not charge or
38 attempt to charge a consumer's credit card, debit card, bank
39 account, or other account for any good or service sold in a
40 transaction conducted over the Internet, unless:

41 (a) Before obtaining the consumer's billing information,
42 the posttransaction third-party seller clearly and conspicuously
43 discloses to the consumer all material terms of the transaction,
44 including:

45 1. A description of the goods or services being offered.

46 2. A statement that the posttransaction third-party seller
47 is not affiliated with the initial merchant. Such statement must
48 include the disclosure of the posttransaction third-party
49 seller's name in a manner that clearly differentiates the
50 posttransaction third-party seller from the initial merchant.

51 3. The cost of such goods or services.

52 4. How and when the charges will be processed by the
53 posttransaction third-party seller.

54 (b) The posttransaction third-party seller receives the
55 express informed consent for the charge from the consumer whose
56 credit card, debit card, bank account, or other account will be

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57 | charged by:

58 | 1. Obtaining from the consumer:

59 | a. The full account number of the account to be charged or
60 | other account information necessary to complete the transaction.

61 | b. The consumer's name and address.

62 | c. A means to contact the consumer.

63 | 2. Requiring the consumer to perform an additional
64 | affirmative action, such as selecting a confirmation button or
65 | checking a box, which clearly and conspicuously indicates the
66 | consumer's consent to be charged the amount disclosed.

67 | 3. Sending to the consumer a written notice confirming the
68 | transaction. The notice must clearly and conspicuously disclose
69 | the following information by either first class United States
70 | Mail or e-mail at least 20 days before charging the consumer:

71 | a. The good or service purchased.

72 | b. The amount that the consumer will be charged.

73 | c. When the consumer's account will be charged.

74 | d. Whether the charges are recurring.

75 | e. A statement that the consumer may cancel at any time by
76 | calling a telephone number provided in the notice or by sending
77 | a written request to a mailing address or e-mail address
78 | provided in the notice.

79 | f. The name of the initial merchant and a statement that
80 | the posttransaction third-party seller is a separate entity from
81 | the initial merchant.

82 | g. A statement that the consumer is being charged by the
83 | posttransaction third-party seller for a transaction that is
84 | separate from the consumer's transaction with the initial

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85 merchant.

86 h. A mechanism for a consumer to cancel the good or
87 service, and stop any recurring charges, by phone, e-mail, or
88 United States Mail.

89 i. If the notice is sent by e-mail, the only words
90 appearing in the subject line shall be "Notice that we are
91 charging your (...type of account...) account."

92 (3) An initial merchant may not disclose a consumer's
93 credit card number, debit card number, bank account number, or
94 other account number, or disclose other consumer billing
95 information, to a posttransaction third-party seller.

96 (4) A posttransaction third-party seller may not charge a
97 consumer unless it provides a mechanism for the consumer to stop
98 recurring charges by telephone, e-mail, or United States Mail.

99 Section 2. This act shall take effect July 1, 2011.