

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 that violations are unfair or  
 14          deceptive trade practices; providing penalties and  
 15          remedies for violations; providing an effective date.

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

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

21                                   PART XII

22                                   MISCELLANEOUS PROVISIONS

23           559.951 Internet sales; prohibited practices.-

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

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

28           (b) "Posttransaction third-party seller" means a person

29 who:

30 1. Sells or offers for sale any good or service over the  
 31 Internet; and

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

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

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

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

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

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

53 3. The cost of such goods or services.

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

56 (b) The posttransaction third-party seller receives the

57 express informed consent for the charge from the consumer whose  
58 credit card, debit card, bank account, or other account will be  
59 charged by:

60 1. Obtaining from the consumer:

61 a. The full account number of the account to be charged or  
62 other account information necessary to complete the transaction.

63 b. The consumer's name and address.

64 c. A means to contact the consumer.

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

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

73 a. The good or service purchased.

74 b. The amount that the consumer will be charged.

75 c. When the consumer's account will be charged.

76 d. Whether the charges are recurring.

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

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

84 g. A statement that the consumer is being charged by the

85 posttransaction third-party seller for a transaction that is  
 86 separate from the consumer's transaction with the initial  
 87 merchant.

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

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

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

98 (4) A posttransaction third-party seller may not:

99 (a) Charge a consumer unless the posttransaction third-  
 100 party seller provides a mechanism for the consumer to stop  
 101 recurring charges by telephone, e-mail, or United States mail;  
 102 or

103 (b) Change its vendor code, or otherwise change the way  
 104 the posttransaction third-party seller is identified on the  
 105 consumer's account, more than once per year, unless the  
 106 posttransaction third-party seller sends a notice of the change  
 107 by e-mail or United States mail.

108 (5) A violation of this section is deemed an unfair or  
 109 deceptive trade practice within the meaning of part II of  
 110 chapter 501. A person who violates this section is subject to  
 111 the penalties and remedies provided therein.

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