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

14  
15 Be It Enacted by the Legislature of the State of Florida:

16  
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  
29 Internet; and

20111884e1

30 2. Solicits the purchase of such good or service over the  
31 Internet through 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  
57 charged by:

58 1. Obtaining from the consumer:

20111884e1

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 (c) Before processing the consumer's credit card or  
68 otherwise charging the consumer or soon thereafter, the  
69 posttransaction third-party seller sends written notice  
70 confirming the transaction to the consumer by first class United  
71 States mail or e-mail. Such notice must clearly and  
72 conspicuously disclose the following:

73 1. The good or service purchased.

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

75 3. The timing and frequency of charges.

76 4. A short and plain statement disclosing the  
77 posttransaction third-party seller's cancellation and refund  
78 policy.

79 5. A telephone number, mailing address, Internet website  
80 address, and e-mail address where the posttransaction third-  
81 party seller may be contacted.

82 6. The name of the initial merchant or fictitious name  
83 under which the initial merchant is doing business, if known.

84 7. The name of the posttransaction third-party seller or  
85 fictitious name under which the posttransaction third-party  
86 seller is doing business.

87 8. A statement that the posttransaction third-party seller

20111884e1

88 is an unaffiliated and separate entity from the initial  
89 merchant.

90 9. A statement that the consumer is being charged by the  
91 posttransaction third-party seller for a transaction that is  
92 separate from the consumer's transaction with the initial  
93 merchant.

94  
95 If the posttransaction third-party seller sends the notice  
96 required under this paragraph by e-mail, the only words  
97 appearing in the e-mail's subject line shall be "Notice that  
98 (...name or fictitious name of the posttransaction third-party  
99 seller...) is charging your (...type of account...) account."

100 (3) An initial merchant may not disclose a consumer's  
101 credit card number, debit card number, bank account number, or  
102 other account number, or disclose other consumer billing  
103 information, to a posttransaction third-party seller.

104 (4) A posttransaction third-party seller may not:  
105 (a) Charge a consumer without providing a simple mechanism  
106 for the consumer to cancel the good or service and stop charges  
107 within a reasonable time after delivery of the written notice  
108 confirming the transaction; or

109 (b) Change its vendor code, or otherwise materially change  
110 the way the posttransaction third-party seller is identified on  
111 the consumer's account, more than once per year, unless the  
112 posttransaction third-party seller provides the consumer with  
113 written notice of the change.

114 (5) A violation of this section is deemed an unfair or  
115 deceptive trade practice within the meaning of part II of  
116 chapter 501. A person who violates this section is subject to

20111884e1

117 the penalties and remedies provided therein.

118 Section 2. This act shall take effect October 1, 2011.