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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.

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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
29 Internet; and

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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.

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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:

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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

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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.

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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

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117 the penalties and remedies provided therein.

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