

SUBSTITUTE FOR  
HOUSE BILL NO. 4250

A bill to amend 1971 PA 227, entitled  
"An act to prescribe the rights and duties of parties to home  
solicitation sales,"  
(MCL 445.111 to 445.117) by adding section 1c.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1        SEC. 1C. (1) IT IS AN UNFAIR OR DECEPTIVE ACT OR PRACTICE  
2 AND A VIOLATION OF THIS ACT FOR A TELEPHONE SOLICITOR TO DO ANY  
3 OF THE FOLLOWING:

4        (A) MISREPRESENT OR FAIL TO DISCLOSE, IN A CLEAR, CONSPICU-  
5 OUS, AND INTELLIGIBLE MANNER AND BEFORE PAYMENT IS RECEIVED FROM  
6 THE CONSUMER, ALL OF THE FOLLOWING INFORMATION:

7        (i) TOTAL PURCHASE PRICE TO THE CONSUMER OF THE GOODS OR  
8 SERVICES TO BE RECEIVED.

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1           (ii) ANY RESTRICTIONS, LIMITATIONS, OR CONDITIONS TO  
2 PURCHASE OR TO USE THE GOODS OR SERVICES THAT ARE THE SUBJECT OF  
3 AN OFFER TO SELL GOODS OR SERVICES.

4           (iii) ANY MATERIAL TERM OR CONDITION OF THE SELLER'S REFUND,  
5 CANCELLATION, OR EXCHANGE POLICY, INCLUDING A CONSUMER'S RIGHT TO  
6 CANCEL A HOME SOLICITATION SALE UNDER SECTION 2 AND, IF APPLICA-  
7 BLE, THAT THE SELLER DOES NOT HAVE A REFUND, CANCELLATION, OR  
8 EXCHANGE POLICY.

9           (iv) ALL MATERIAL COSTS OR CONDITIONS RELATED TO RECEIVING A  
10 PRIZE, INCLUDING THE ODDS OF WINNING THE PRIZE, AND IF THE ODDS  
11 ARE NOT CALCULABLE IN ADVANCE, THE FACTORS USED IN CALCULATING  
12 THE ODDS, THE NATURE AND VALUE OF A PRIZE, THAT NO PURCHASE IS  
13 NECESSARY TO WIN THE PRIZE, AND THE "NO PURCHASE REQUIRED" METHOD  
14 OF ENTERING THE CONTEST.

15           (v) ANY MATERIAL ASPECT OF AN INVESTMENT OPPORTUNITY THE  
16 SELLER IS OFFERING, INCLUDING, BUT NOT LIMITED TO, RISK, LIQUIDI-  
17 TY, EARNINGS POTENTIAL, MARKET VALUE, AND PROFITABILITY.

18           (vi) THE QUANTITY AND ANY MATERIAL ASPECT OF THE QUALITY OR  
19 BASIC CHARACTERISTICS OF ANY GOODS OR SERVICES OFFERED.

20           (vii) THE RIGHT TO CANCEL A SALE UNDER THIS ACT, IF ANY.

21           (B) MISREPRESENT ANY MATERIAL ASPECT OF THE QUALITY OR BASIC  
22 CHARACTERISTICS OF ANY GOODS OR SERVICES OFFERED.

23           (C) MAKE A FALSE OR MISLEADING STATEMENT WITH THE PURPOSE OF  
24 INDUCING A CONSUMER TO PAY FOR GOODS OR SERVICES.

25           (D) REQUEST OR ACCEPT PAYMENT FROM A CONSUMER OR MAKE OR  
26 SUBMIT ANY CHARGE TO THE CONSUMER'S CREDIT OR BANK ACCOUNT BEFORE  
27 THE TELEPHONE SOLICITOR OR SELLER RECEIVES FROM THE CONSUMER AN

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1 EXPRESS VERIFIABLE AUTHORIZATION. AS USED IN THIS SUBDIVISION,  
2 "VERIFIABLE AUTHORIZATION" MEANS A WRITTEN AUTHORIZATION OR CON-  
3 FIRMATION, AN ORAL AUTHORIZATION RECORDED BY THE TELEPHONE SOLIC-  
4 ITOR, OR CONFIRMATION THROUGH AN INDEPENDENT THIRD PARTY.

5 (E) OFFER TO A CONSUMER IN THIS STATE A PRIZE PROMOTION IN  
6 WHICH A PURCHASE OR PAYMENT IS NECESSARY TO OBTAIN THE PRIZE.

7 (F) FAIL TO COMPLY WITH THE REQUIREMENTS OF SECTION 1A OR  
8 1B.

9 (G) MAKE A TELEPHONE SOLICITATION TO A CONSUMER IN THIS  
10 STATE WHO HAS REQUESTED THAT HE OR SHE NOT RECEIVE CALLS FROM THE  
11 ORGANIZATION OR OTHER PERSON ON WHOSE BEHALF THE TELEPHONE SOLIC-  
12 ITATION IS MADE. EACH ORGANIZATION OR OTHER PERSON ON WHOSE  
13 BEHALF TELEPHONE SOLICITATIONS ARE MADE IN THIS STATE SHALL  
14 RECORD EACH OF THESE REQUESTS FROM CONSUMERS AND MAINTAIN A LIST  
15 OF THE NAMES AND TELEPHONE NUMBERS OF THESE CONSUMERS.

16 (2) BEGINNING 90 DAYS AFTER THE EFFECTIVE DATE OF THE AMEN-  
17 DATORY ACT THAT ADDED THIS SECTION, A PERSON WHO KNOWINGLY OR  
18 INTENTIONALLY VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR  
19 PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 6 MONTHS OR A FINE  
20 OF NOT MORE THAN \$500.00, OR BOTH. THIS SUBSECTION DOES NOT PRO-  
21 HIBIT A PERSON FROM BEING CHARGED WITH, CONVICTED OF, OR PUNISHED  
22 FOR ANY OTHER CRIME INCLUDING ANY OTHER VIOLATION OF LAW ARISING  
23 OUT OF THE SAME TRANSACTION AS THE VIOLATION OF THIS SECTION.

24 Enacting section 1. This amendatory act does not take  
25 effect unless House Bill No. 4042 of the 91st Legislature is  
26 enacted into law.