

CHAPTER 234—H.F.No. 2173

An act relating to consumer protection; establishing fraud prevention measures for money transmitters; clarifying the definition of home solicitation sale; amending Minnesota Statutes 2010, sections 53B.18; 325G.06, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 53B.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2010, section 53B.18, is amended to read:

53B.18 PROHIBITED PRACTICES.

No licensee shall:

- (1) fail to comply with chapter 345 as it relates to unclaimed property requirements;
- (2) refuse to indemnify an instrument holder for any misappropriation of money caused by any of its authorized delegates in conducting activities on behalf of the licensee for whom it acts as an authorized delegate; ~~or~~
- (3) fail to transmit all money received for wire transmission in accordance with the purchaser's instructions within five days; or
- (4) fail to comply with section 53B.27.

Sec. 2. **[53B.27] MONEY TRANSMITTERS; COOPERATION REQUIRED IN COMBATTING FRAUD.**

Subdivision 1. Fraud prevention measures required. Each money transmitter shall:

- (1) provide a clear, concise, and conspicuous consumer fraud warning on all transmittal forms used by consumers;
- (2) provide consumer fraud prevention training for agents involved with transmittals;
- (3) monitor agent activity relating to consumer transmittals; and
- (4) establish a toll-free number for consumers to call to report fraud or suspected fraud.

Subd. 2. Voluntary disqualification by customer. A money transmitter that originates money transfers in this state must allow an individual to voluntarily disqualify the individual from sending or receiving money transfers. The disqualification lasts for one year, unless the individual requests that it be in effect for a period longer than one year. The individual may terminate the disqualification at any time upon written notice to the money transmitter.

Sec. 3. Minnesota Statutes 2010, section 325G.06, subdivision 2, is amended to read:

Subd. 2. **Home solicitation sale.** "Home solicitation sale" means a sale of goods or services, or improvements to real property by a seller who regularly engages in transactions of the same kind, purchased primarily for personal, family or household purposes, and not for agricultural purposes, with a purchase price of more than \$25, in which the seller or a person acting for the seller personally solicits the sale, and when the buyer's agreement or offer to purchase is made at a place other than the place of business of the seller, except as otherwise provided in this subdivision. It does not include:

(a) (1) a sale made pursuant to prior negotiations in the course of a visit by the buyer to a retail business establishment having a fixed permanent location where the goods are exhibited or the services are offered for sale on a continuing basis; or

(b) (2) a sale in which the buyer has initiated the contact and the goods or services are needed to meet a bona fide immediate personal emergency of the buyer and the buyer furnishes the seller with a separate dated and signed statement not furnished by the seller describing the situation requiring immediate remedy and expressly acknowledging and waiving the right to cancel the sale. This exclusion shall only apply where (i) the seller in good faith makes a substantial beginning of performance of the contract before the buyer gives notice of cancellation, and, (ii) in the case of goods, the goods cannot be returned to the seller in substantially as good condition as when received by the buyer; or

(c) (3) a sale in which the buyer has initiated the contact and specifically requested the seller to visit the buyer's home for the purpose of repairing or performing maintenance upon the buyer's property. If in the course of such a visit, the seller sells the buyer the right to receive additional services or goods other than replacement parts necessarily used in performing the maintenance or in making the repairs, the sale of those additional goods or services would not fall within this exclusion; or

(d) (4) a sale in which the buyer has initiated the contact either by oral, telephone, or written request (other than on a form provided by the seller), and requested the seller to visit the buyer's home for the purpose of negotiating the purchase of the specific good or service requested. This exclusion shall only apply where the buyer furnishes the seller with a separate dated and signed statement in the buyer's handwriting expressly acknowledging and waiving the right to cancel the sale; or

(e) (5) a sale of insurance, securities, or real property; or a sale by public auction; or

(f) (6) a sale of a motor vehicle, as defined in section 168.002, subdivision 18, when the buyer's agreement or offer to purchase is made at a place other than the buyer's place of residence.

Presented to the governor April 24, 2012

Signed by the governor April 27, 2012, 2:08 p.m.