

By: Chisum

H.B. No. 1833

Substitute the following for H.B. No. 1833:

By: Zedler

C.S.H.B. No. 1833

A BILL TO BE ENTITLED

AN ACT

1
2 relating to disclosures required for the creation of certain
3 consumer contracts solicited by mail; providing a civil penalty.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Subchapter D, Chapter 35, Business & Commerce
6 Code, is amended by adding Section 35.455 to read as follows:

7 Sec. 35.455. DISCLOSURES REQUIRED FOR CERTAIN CONSUMER
8 CONTRACTS SOLICITED BY MAIL. (a) Unless the context requires a
9 different definition, the definitions of Chapter 3 apply to this
10 section.

11 (b) This section applies only to a person that solicits
12 business in this state by mailing an individual a check or draft
13 payable to the individual. This section does not apply to a
14 financial institution as defined in Section 201.101, Finance Code,
15 that sends a check to an account holder authorizing the account
16 holder to access an extension of credit.

17 (c) A person that makes an offer that the recipient may
18 accept by endorsing and negotiating the check or draft shall state
19 on the check or draft in uppercase 12-point boldfaced type next to
20 the place for indorsement: "BY SIGNING AND NEGOTIATING THIS
21 DOCUMENT YOU AGREE TO PAY FOR FUTURE SERVICES ARISING OUT OF THIS
22 CONTRACT."

23 (d) If a person makes an offer under Subsection (c) that
24 includes a free membership period, trial period, or other incentive

1 with a time limit, and if the offer results in a contract unless the
2 recipient cancels, rescinds, or revokes the offer by the end of the
3 time period, the offeror shall send notice to the recipient, at
4 least two weeks before the expiration of the time period, of the
5 recipient's obligation to cancel, rescind, revoke, or otherwise
6 terminate the recipient's acceptance. The notice must be in
7 uppercase 12-point boldfaced type and state: "YOU MUST ACT NOW TO
8 AVOID FUTURE CHARGES."

9 (e) An offer is void if the offeror:

10 (1) does not make the disclosure required by
11 Subsection (c);

12 (2) does not give notice as required by Subsection
13 (d), if applicable; or

14 (3) provides an incentive with a time limit, including
15 a free trial or membership period, that is less than two weeks.

16 (f) If an offer described by Subsection (c) does not contain
17 the required disclosure, or is not followed by any notice required
18 by Subsection (d), the delivery of any goods or services to the
19 recipient does not operate to form a contract between the offeror
20 and the recipient.

21 (g) A violation of this section is a deceptive trade
22 practice in addition to the practices described by Subchapter E,
23 Chapter 17, and is actionable under that subchapter.

24 SECTION 2. Section 35.455, Business & Commerce Code, as
25 added by this Act, applies only to a solicitation that is mailed on
26 or after September 1, 2005. A solicitation that is mailed before
27 September 1, 2005, is covered by the law in effect on the date the

1 solicitation was mailed, and the former law is continued in effect
2 for that purpose.

3 SECTION 3. This Act takes effect September 1, 2005.