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# A BILL FOR AN ACT

RELATING TO CONSUMER PROTECTION.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Chapter 481B, Hawaii Revised Statutes, is  
2 amended by adding a new section to part I to be appropriately  
3 designated and to read as follows:

4           "§481B-           Unaffiliated and unsolicited mail and

5 electronic mail. (a) No entity shall distribute unsolicited

6 mail or electronic mail to a consumer that employs high pressure

7 tactics or is reasonably likely to result in the consumer

8 believing that the sender is affiliated with another entity that

9 the sender is not actually affiliated with and the entity is

10 asking the recipient to pay for goods, services, or forms of

11 legal authorization, including but not limited to:

12           (1) An entity representing that a vehicle manufacturer, a

13 new motor vehicle dealer, a used motor vehicle dealer,

14 or an insurance company is asking the consumer to send

15 money to extend a vehicle warranty or purchase a

16 service contract;



1       (2) An entity representing that a mortgage loan  
2           originator, a mortgage loan originator company, a  
3           mortgage servicer, or an insurance company is asking  
4           the consumer to send money to extend a home warranty;  
5           or  
6       (3) An entity representing that a federal, state, or  
7           county government, or its agencies, employees, or  
8           officers, is asking the consumer to send money to  
9           renew a government-issued license or registration,  
10       unless the entity includes a clear and conspicuous statement as  
11       specified in subsection (b); provided that if the required  
12       statement is not included in the unsolicited mail or electronic  
13       mail, any contract entered into as a result of the unsolicited  
14       mail or electronic mail shall be voidable at the option of the  
15       consumer, and any money paid by the consumer under the contract  
16       shall be refunded in full.  
17       (b) The clear and conspicuous statement required by this  
18       section shall be printed or rendered in boldface, fourteen-point  
19       type and located in a position reasonably calculated to draw the  
20       attention of the reader and shall be as follows:



1        (1) Unless specifically provided otherwise in this  
2        subsection, the statement shall be that:

3        (A) The entity is not affiliated with the other  
4        entity; and

5        (B) The requested payment is completely optional;

6        (2) If a consumer is asked to send money to extend a  
7        vehicle warranty or purchase a service contract, the  
8        statement shall be that:

9        (A) The entity is not affiliated with the vehicle  
10       manufacturer, new motor vehicle dealer, used  
11       motor vehicle dealer, or insurance company;

12       (B) The extended vehicle warranty or service contract  
13       being offered is completely optional; and

14       (C) The consumer's existing benefits, rights, and  
15       protections will not be affected by a failure to  
16       contact the entity;

17       (3) If a consumer is asked to send money to extend a home  
18       warranty, the statement shall be that:

19       (A) The entity is not affiliated with the mortgage  
20       loan originator, mortgage loan originator  
21       company, mortgage servicer, or insurance company;



1           (B) The home warranty being offered is completely  
2           optional; and

3           (C) The consumer's existing benefits, rights, and  
4           protections will not be affected by a failure to  
5           contact the entity; and

6           (4) If a consumer is asked to send money to renew a  
7           government-issued license or registration, the  
8           statement shall be that:

9           (A) The entity is not affiliated with the federal,  
10           state, or county government, or its agencies,  
11           employees, or officers;

12           (B) The license or registration renewal being offered  
13           is completely optional; and

14           (C) The consumer's existing license or registration  
15           will not be affected by a failure to contact the  
16           entity.

17           (c) Nothing in this section shall be construed to prohibit  
18           an entity from distributing mail or electronic mail regarding  
19           legitimate communications about goods, services, or forms of  
20           legal authorization offered or managed by the entity as long as  
21           the mail or electronic mail does not employ high pressure



1 tactics and is not reasonably likely to result in the consumer  
2 believing that the sender is affiliated with another entity to  
3 which the entity is not actually affiliated, such as vehicle  
4 manufacturers distributing service reminders to consumers.

5 (d) Nothing in this section shall be construed to prohibit  
6 an insurer, warranty provider, or service contract provider, or  
7 an authorized representative of an insurer, warranty provider,  
8 or service contract provider, from communicating with an  
9 existing consumer regarding a policy, warranty, or service  
10 contract issued or administered by that entity.

11 (e) For the purposes of this section:

12 "Affiliated" means a person or entity that is expressly  
13 authorized by the insurer, warranty provider, or service  
14 contract provider that issued the policy, warranty, or service  
15 contract referenced in the communication, and that is acting  
16 solely on behalf of that issuing entity in connection with the  
17 administration, renewal, or servicing of that specific policy,  
18 warranty, or service contract. "Affiliated" does not include a  
19 person or entity whose relationship to the consumer arises  
20 solely through common ownership, shared branding, marketing  
21 arrangements, or any other indirect business relationship.



1       "Entity" means a person, firm, partnership, association, or  
2 corporation, or agent or employee thereof.

3       "High pressure tactics" means any method of marketing  
4 having the effect of or tending to induce the remittance of  
5 money through force, fright, or threat, whether explicit or  
6 implied, or undue pressure.

7       "Mortgage loan originator" has the same meaning as defined  
8 in section 454F-1.

9       "Mortgage loan originator company" has the same meaning as  
10 defined in section 454F-1.

11       "Mortgage servicer" has the same meaning as defined in  
12 section 454M-1.

13       "New motor vehicle dealer" has the same meaning as defined  
14 in section 437-1.1.

15       "Unsolicited" means a communication sent to a recipient  
16 with whom the sender has no existing business relationship, or  
17 that was not requested, authorized, or consented to by the  
18 recipient.

19       "Used motor vehicle dealer" has the same meaning as defined  
20 in section 437-1.1.



1        "Vehicle manufacturer" has the same meaning as  
2        "manufacturer" as defined in section 437-1.1. "Vehicle  
3        manufacturer" includes "distributor" as defined in section  
4        437-1.1."

5        SECTION 2. New statutory material is underscored.

6        SECTION 3. This Act shall take effect upon its approval.



**Report Title:**

Consumer Protection; Unsolicited Mail and Electronic Mail;  
Vehicle Warranties; Service Contracts; Home Warranties;  
Government-Issued Licenses and Registrations; Prohibitions

**Description:**

Prohibits entities from distributing unsolicited mail or electronic mail that employs high pressure tactics or is reasonably likely to cause a consumer to believe that the sender is affiliated with another entity that the sender is not actually affiliated with and the entity is asking the recipient to pay for goods, services, or forms of legal authorization, including but not limited to vehicle warranties, service contracts, home warranties, and government-issued licenses or registrations, unless certain disclosures are met. Makes contracts that fail to meet disclosure requirements voidable at the option of the consumer. (CD1)

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