
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 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 mail or electronic mail, any
13 contract entered into as a result of the unsolicited mail or
14 electronic mail shall be voidable at the option of the consumer,
15 and any money paid by the consumer under the contract shall be
16 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 license or registration, the statement shall be that:

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

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

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

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



1 sender is affiliated with another entity to which the entity is
2 not actually affiliated, such as vehicle manufacturers
3 distributing service reminders to consumers.

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

10 (e) For the purposes of this section:

11 "Affiliated" means a person or entity that has an existing
12 business relationship with a consumer and is authorized to
13 solicit service contracts or extended warranties by the insurer,
14 warranty provider, or service contract provider that issued the
15 policy, warranty, or service contract referenced in the
16 communication.

17 "Entity" means a person, firm, partnership, association, or
18 corporation, or agent or employee thereof.

19 "High pressure tactics" means any method of marketing
20 having the effect of or tending to induce the remittance of



1 money through force, fright, or threat, whether explicit or
2 implied, or undue pressure.

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

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

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

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

11 "Unsolicited" means a communication sent to a recipient
12 with whom the sender has no existing business relationship, or
13 that was not requested, authorized, or consented to by the
14 recipient.

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

17 "Vehicle manufacturer" has the same meaning as
18 "manufacturer" as defined in section 437-1.1. "Vehicle
19 manufacturer" includes "distributor" as defined in section
20 437-1.1."

21 SECTION 2. New statutory material is underscored.



1 SECTION 3. This Act shall take effect on July 1, 3000.



Report Title:

Consumer Protection; Unsolicited Mail and Electronic Mail;
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, unless certain disclosures are met. Makes contracts that fail to meet disclosure requirements voidable at the option of the consumer. Effective 7/1/3000. (SD1)

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