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FILED

**Jane Dee Hull
Secretary of State**

CHAPTER 330

HOUSE BILL 2175

AN ACT

AMENDING SECTIONS 44-1271, 44-1272, 44-1273, 44-1274, 44-1276, 44-1277, 44-1278 AND 44-1279, ARIZONA REVISED STATUTES; RELATING TO TELEPHONE SOLICITATIONS.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 44-1271, Arizona Revised Statutes, is amended to read:

44-1271. Definitions

In this article, unless the context otherwise requires:

1. "CONSUMER" MEANS A PERSON WHO IS SOLICITED BY A SELLER OR SOLICITOR.

2. "LICENSED ASSOCIATED PERSON OF A SECURITIES, COMMODITIES OR INVESTMENTS BROKER" MEANS ANY ASSOCIATED PERSON REGISTERED OR LICENSED BY THE NATIONAL ASSOCIATION OF SECURITIES DEALERS, A SELF-REGULATORY ORGANIZATION AS DEFINED IN THE SECURITIES EXCHANGE ACT OF 1934 (15 UNITED STATES CODE SECTION 78a THROUGH 7811) OR AN OFFICIAL OR AGENCY OF THIS STATE OR OF ANY OTHER STATE OF THE UNITED STATES.

3. "LICENSED SECURITIES COMMODITIES OR INVESTMENTS BROKER, DEALER OR INVESTMENT ADVISOR" MEANS A PERSON LICENSED OR REGISTERED AS A SECURITIES COMMODITIES OR INVESTMENTS BROKER, DEALER OR INVESTMENT ADVISOR BY THE SECURITIES AND EXCHANGE COMMISSION, THE NATIONAL ASSOCIATION OF SECURITIES DEALERS, A SELF-REGULATORY ORGANIZATION AS DEFINED IN THE SECURITIES EXCHANGE ACT OF 1934 (15 UNITED STATES CODE SECTION 78a THROUGH 7811) OR AN OFFICIAL OR AGENCY OF THIS STATE OR OF ANY OTHER STATE OF THE UNITED STATES.

4. "Manager" means a person who supervises the work of a telephone solicitor.

1 ~~2-~~ 5. "Merchandise" means objects, wares, goods, commodities,
2 intangibles, real estate, securities or services.

3 ~~3-~~ 6. "Person" means:

4 (a) A natural person or his legal representative.

5 (b) A partnership, A LIMITED LIABILITY COMPANY, A LIMITED LIABILITY
6 PARTNERSHIP or a domestic or foreign corporation.

7 (c) A company, trust, business entity or association.

8 (d) An agent, employee, salesman, partner, officer, director, member,
9 stockholder, associate or trustee.

10 (e) Any other legal entity or any group associated in fact although
11 not a legal entity.

12 ~~4-~~ 7. "Premium" means ~~a ANY gift, bonus, prize, award, certificate~~
13 ~~or other paper or any other means by which the prospective purchaser is given~~
14 ~~a right, chance or privilege to purchase or receive, whether for a fee or at~~
15 ~~no cost, merchandise, with a stated or represented value of fifty dollars or~~
16 ~~more or with no stated or represented value, as an inducement to a~~
17 ~~prospective purchaser to purchase other merchandise~~ OR OTHER INCENTIVE OR
18 INDUCEMENT TO PURCHASE MERCHANDISE.

19 ~~5-~~ 8. "Principal" means an owner, an officer of a corporation OR
20 LIMITED LIABILITY COMPANY, a general partner of a partnership, a sole
21 proprietor of a sole proprietorship, A PARTNER OF A LIMITED LIABILITY
22 PARTNERSHIP, a trustee of a trust ~~or~~ AND any other individual who controls,
23 manages ~~and~~ OR supervises a telephone sales operation.

24 ~~6-~~ "Sale" means ~~a sale of merchandise in which all of the following~~
25 ~~apply-~~

26 ~~(a) The seller or solicitor makes the offer of sale over the~~
27 ~~telephone-~~

28 ~~(b) The prospective purchaser's agreement or offer to purchase is made~~
29 ~~over the telephone-~~

30 ~~(c) The seller or solicitor offers the prospective purchaser a~~
31 ~~premium-~~

32 9. "PRIZE" MEANS ANYTHING OFFERED OR PURPORTEDLY OFFERED AND GIVEN OR
33 PURPORTEDLY GIVEN TO A PERSON BY CHANCE. CHANCE EXISTS IF A PERSON IS
34 GUARANTEED TO RECEIVE AN ITEM AND AT THE TIME OF THE OFFER OR PURPORTED OFFER
35 THE SELLER OR SOLICITOR DOES NOT IDENTIFY THE SPECIFIC ITEM THAT THE PERSON
36 WILL RECEIVE.

37 10. "PRIZE PROMOTION" MEANS A SWEEPSTAKES OR OTHER GAME OF CHANCE OR
38 AN ORAL OR WRITTEN EXPRESS OR IMPLIED REPRESENTATION THAT A PERSON HAS WON,
39 HAS BEEN SELECTED TO RECEIVE OR MAY BE ELIGIBLE TO RECEIVE A PRIZE OR
40 PURPORTED PRIZE.

41 11. "RECOVERY SERVICE" MEANS ANY BUSINESS OR OTHER PRACTICE IN WHICH
42 A PERSON REPRESENTS OR IMPLIES THAT THE PERSON WILL RECOVER OR ASSIST IN
43 RECOVERING FOR A FEE ANY AMOUNT OF MONEY THAT A CONSUMER HAS PROVIDED TO A
44 SELLER PURSUANT TO A TELEPHONE SOLICITATION.

1 7- 12. "Seller" means a person who, directly or through a solicitor,
2 seeks orders for the sale of merchandise by means of telephone solicitation
3 UNDER ANY OF THE FOLLOWING CIRCUMSTANCES:

4 (a) THE PERSON INITIATES CONTACT BY TELEPHONE WITH A CONSUMER AND
5 REPRESENTS OR IMPLIES THAT:

6 (i) A CONSUMER WHO BUYS MERCHANDISE WILL RECEIVE ADDITIONAL
7 MERCHANDISE, THE SAME AS OR DIFFERENT FROM THE TYPE OF MERCHANDISE PURCHASED,
8 WITHOUT ANY ADDITIONAL CHARGE, EXCEPT FOR ACTUAL POSTAGE OR COMMON CARRIER
9 CHARGES.

10 (ii) A CONSUMER WILL RECEIVE OR HAS A CHANCE OR OPPORTUNITY TO RECEIVE
11 A PREMIUM.

12 (iii) THE PERSON IS OFFERING TO SELL THE SERVICES OF A RECOVERY
13 SERVICE.

14 (iv) THE PERSON IS OFFERING TO MAKE A LOAN, TO ARRANGE OR ASSIST IN
15 ARRANGING A LOAN OR TO ASSIST IN PROVIDING INFORMATION THAT MAY LEAD TO
16 OBTAINING A LOAN UNLESS NO PAYMENT OF ANY KIND IS MADE UNTIL THE LOAN
17 PROCEEDS ARE DISBURSED TO THE BORROWER.

18 (v) THE CONSUMER WILL RECEIVE A CREDIT CARD IF THE CONSUMER PAYS A FEE
19 FOR THE CARD BEFORE RECEIVING THE CARD.

20 (b) THE SOLICITATION BY TELEPHONE IS MADE BY THE PERSON IN RESPONSE
21 TO INQUIRIES FROM A CONSUMER GENERATED BY A NOTIFICATION OR COMMUNICATION
22 SENT OR DELIVERED TO THE CONSUMER THAT REPRESENTS OR IMPLIES THAT:

23 (i) THE CONSUMER HAS BEEN SPECIALLY SELECTED IN ANY MANNER TO RECEIVE
24 THE NOTIFICATION OR COMMUNICATION OR THE OFFER CONTAINED IN THE NOTIFICATION
25 OR COMMUNICATION.

26 (ii) THE CONSUMER WILL RECEIVE A PREMIUM IF THE CONSUMER CALLS THE
27 PERSON.

28 (iii) IF THE CONSUMER PURCHASES MERCHANDISE FROM THE PERSON, THE
29 CONSUMER WILL ALSO RECEIVE ADDITIONAL OR OTHER MERCHANDISE, THE SAME AS OR
30 DIFFERENT FROM THE TYPE OF MERCHANDISE PURCHASED, WITHOUT ANY ADDITIONAL
31 CHARGE OR FOR A PRICE THAT THE PERSON REPRESENTS OR IMPLIES IS LESS THAN THE
32 REGULAR PRICE OF THE MERCHANDISE.

33 (iv) THE PERSON IS OFFERING FOR SALE THE SERVICES OF A RECOVERY
34 SERVICE.

35 (v) THE PERSON IS OFFERING TO MAKE A LOAN, TO ARRANGE OR ASSIST IN
36 ARRANGING A LOAN OR TO ASSIST IN PROVIDING INFORMATION THAT MAY LEAD TO
37 OBTAINING A LOAN UNLESS NO PAYMENT OF ANY KIND IS MADE UNTIL THE LOAN
38 PROCEEDS ARE DISBURSED TO THE BORROWER.

39 (vi) THE CONSUMER WILL RECEIVE A CREDIT CARD IF THE CONSUMER PAYS A
40 FEE FOR THE CARD BEFORE RECEIVING THE CARD.

41 (c) THE SOLICITATION BY TELEPHONE IS MADE BY THE PERSON IN RESPONSE
42 TO INQUIRIES GENERATED BY ADVERTISEMENTS ON BEHALF OF THE PERSON THAT
43 REPRESENT OR IMPLY THAT:

1 (i) THE PERSON IS OFFERING TO SELL THE SERVICES OF A RECOVERY SERVICE.

2 (ii) THE PERSON IS OFFERING TO MAKE A LOAN, TO ARRANGE OR ASSIST IN
3 ARRANGING A LOAN OR TO ASSIST IN PROVIDING INFORMATION THAT MAY LEAD TO
4 OBTAINING A LOAN UNLESS NO PAYMENT OF ANY KIND IS MADE UNTIL THE LOAN
5 PROCEEDS ARE DISBURSED TO THE BORROWER.

6 (iii) THE CONSUMER WILL RECEIVE A CREDIT CARD IF THE CONSUMER PAYS A
7 FEE FOR THE CARD BEFORE RECEIVING THE CARD.

8 ~~8-~~ 13. "Solicitor" means a person who uses a telephone to seek sales
9 of merchandise on behalf of a seller or uses a telephone to verify sales for
10 a seller.

11 14. "TELEPHONE SOLICITATION SALE" MEANS A SALE OF MERCHANDISE BY A
12 SELLER.

13 Sec. 2. Section 44-1272, Arizona Revised Statutes, is amended to read:
14 44-1272. Telephone seller; registration

15 A. A seller shall file a verified registration statement with the
16 secretary of state before the seller solicits ~~prospective purchasers~~ ANY
17 CONSUMER from ~~locations~~ A LOCATION in this state OR ANY CONSUMER LOCATED IN
18 THIS STATE. Each principal of the seller shall sign the registration
19 statement, HAVE THE SIGNATURE NOTARIZED and file the statement with the
20 secretary of state along with the annual registration fee prescribed by
21 section 44-1275. The registration statement expires on June 30 of each year
22 and shall be annually renewed by completing a new registration statement
23 within thirty days before expiration.

24 B. EXCEPT AS PROVIDED IN SUBSECTION D, OF THIS SECTION, if, before the
25 expiration of a seller's annual registration, there is a change in any of the
26 information required by subsection C of this section, within ten days of the
27 change the seller shall file a supplemental statement with the secretary of
28 state, except that a seller shall only update quarterly any changes in
29 solicitors hired by the seller.

30 C. Each registration statement shall contain all of the following
31 information:

32 1. The TRUE LEGAL name of the seller.

33 2. The name under which the seller is doing business or intends to do
34 business.

35 3. The seller's business form and state of organization.

36 4. If the seller is a corporation OR LIMITED LIABILITY COMPANY, a copy
37 of its articles of incorporation and bylaws and amendments to the bylaws.
38 If the seller is a partnership OR LIMITED LIABILITY PARTNERSHIP, a copy of
39 the partnership agreement. If the seller is operating under a fictitious
40 business name, the location where the fictitious name has been registered.

41 5. The complete street address of the physical location of the
42 principal place of business of the seller, the complete street address of all
43 other locations from which the seller will be conducting business and all
44 telephone numbers for telephones at these locations.

1 6. For each principal, manager and solicitor, the TRUE LEGAL name,
2 residence address, telephone number, AND date of birth and A CLEAR AND
3 LEGIBLE COPY OF THE current ~~driver's~~ DRIVER license ~~number along with the~~
4 ~~state of issuance of the driver's license~~ OR VALID GOVERNMENT ISSUED PHOTO
5 IDENTIFICATION CARD.

6 7. FOR EACH MANAGER, THE ADDRESS OF THE BUSINESS LOCATION FOR WHICH
7 THE MANAGER IS RESPONSIBLE.

8 ~~7.~~ 8. The name and address of the seller's agent in this state who
9 is authorized to receive service of process in this state.

10 ~~8.~~ 9. A copy of the bond filed with the state treasurer pursuant to
11 section 44-1274.

12 ~~9.~~ 10. Whether a principal or manager:

13 (a) Has been convicted or pleaded no contest to a felony or
14 misdemeanor involving moral turpitude or a violation of this article.

15 (b) Has been held liable in a civil action, either by final judgment
16 or by entry of a stipulated judgment, if the civil action alleged fraud,
17 embezzlement, racketeering, fraudulent conversion or misappropriation of
18 property or a violation of this article or the use of untrue or misleading
19 representations in an attempt to sell or dispose of real or personal property
20 or the use of unfair, unlawful or deceptive business practices.

21 (c) Is subject to a currently effective injunction or restrictive
22 order relating to a business activity as a result of an action brought by a
23 public agency or department, including an action affecting a vocational
24 license. The statement shall include the name of the court, the date of the
25 conviction, the judgment, order or injunction and, if applicable, the name
26 of the governmental agency that filed the action resulting in the conviction,
27 judgment, order or injunction.

28 11. A COPY OF ANY:

29 (a) SCRIPT, OUTLINE OR PRESENTATION THE SELLER WILL REQUIRE OR SUGGEST
30 THAT A SOLICITOR USE, EXCEPT THAT IF THE SELLER DOES NOT REQUIRE OR SUGGEST
31 A SCRIPT, OUTLINE OR PRESENTATION, A STATEMENT THAT NO SUCH DOCUMENT IS
32 REQUIRED OR SUGGESTED.

33 (b) SALES INFORMATION AND LITERATURE PROVIDED BY THE SELLER TO A
34 SOLICITOR OR DESCRIBED BY THE SELLER FOR USE BY THE SOLICITOR, INCLUDING
35 SCRIPTS, OUTLINES, PRESENTATIONS, INFORMATION ON HOW TO CONDUCT TELEPHONE
36 SALES, SAMPLE INSTRUCTIONS, SAMPLE CLOSINGS, PRODUCT INFORMATION AND CONTEST
37 OR PREMIUM AWARD INFORMATION.

38 (c) SALES INFORMATION AND ANY OTHER LITERATURE PROVIDED BY THE SELLER
39 TO A CONSUMER IN CONNECTION WITH ANY SOLICITATION.

40 D. IF A SELLER EXPRESSLY OR IMPLIEDLY REPRESENTS TO ANY CONSUMER,
41 DIRECTLY OR THROUGH A SOLICITOR, THAT THE CONSUMER IS OR MAY BE ELIGIBLE TO
42 RECEIVE ANY PREMIUM, THE SELLER SHALL SUBMIT WITH THE REGISTRATION STATEMENT
43 ANOTHER STATEMENT SETTING FORTH FOR EACH PREMIUM MENTIONED:

- 1 1. A DESCRIPTION OF THE PREMIUM.
- 2 2. THE VALUE OR WORTH OF THE PREMIUM AND THE BASIS FOR THE VALUATION.
- 3 3. ALL TERMS AND CONDITIONS A CONSUMER MUST SATISFY IN ORDER TO
- 4 RECEIVE THE PREMIUM.
- 5 4. THE ODDS OF BEING ABLE TO RECEIVE THE PREMIUM, AND IF THE ODDS ARE
- 6 NOT CALCULABLE IN ADVANCE, THE FACTORS USED IN CALCULATING THE ODDS.
- 7 5. IF THE CONSUMER WILL RECEIVE FEWER THAN ALL OF THE PREMIUMS
- 8 DESCRIBED BY THE SELLER:
 - 9 (a) THE MANNER IN WHICH THE SELLER DECIDES WHICH PREMIUM THE CONSUMER
 - 10 WILL RECEIVE.
 - 11 (b) THE ODDS OF BEING ABLE TO RECEIVE EACH PREMIUM, AND IF THE ODDS
 - 12 ARE NOT CALCULABLE IN ADVANCE, THE FACTORS USED IN CALCULATING THE ODDS.
 - 13 (c) THE NAME AND ADDRESS OF EACH PERSON WHO WITHIN THE PAST TWELVE
 - 14 MONTHS HAS RECEIVED THE PREMIUM HAVING THE GREATEST VALUE AND THE PREMIUM
 - 15 WITH THE SMALLEST ODDS OF BEING RECEIVED.
 - 16 E. IF THE SELLER EXPRESSLY OR IMPLIEDLY REPRESENTS TO ANY CONSUMER,
 - 17 DIRECTLY OR THROUGH A SOLICITOR, THAT THE SELLER CAN OR MAY BE ABLE TO MAKE
 - 18 A LOAN, ARRANGE A LOAN, ASSIST IN ARRANGING A LOAN OR ASSIST IN PROVIDING
 - 19 INFORMATION THAT MAY LEAD TO OBTAINING A LOAN, THE SELLER SHALL SUBMIT WITH
 - 20 THE REGISTRATION STATEMENT ANOTHER STATEMENT SETTING FORTH:
 - 21 1. FOR THE PREVIOUS TWENTY-FOUR MONTHS, THE NAMES AND ADDRESSES OF ANY
 - 22 PERSON WHO LENT MONEY TO:
 - 23 (a) CONSUMERS WHO RESPONDED TO THE SOLICITATIONS OF THE SELLER'S
 - 24 PREDECESSOR OR THE SELLER'S OFFICERS OR OWNERS OR THOSE PERSONS HAVING
 - 25 PRESENT MANAGEMENT RESPONSIBILITIES OR TO COMPANIES WITH WHICH THEY WERE
 - 26 ASSOCIATED.
 - 27 (b) THE SELLER'S PREDECESSOR OR THE SELLER'S OFFICERS OR OWNERS OR
 - 28 THOSE PERSONS HAVING PRESENT MANAGEMENT RESPONSIBILITIES OR TO THOSE
 - 29 COMPANIES WITH WHICH THEY WERE ASSOCIATED FOR THEM TO LEND TO CONSUMERS WHO
 - 30 RESPONDED TO SOLICITATIONS.
 - 31 2. FOR THE TWELVE MONTHS AFTER THE DATE OF THE REGISTRATION, THE NAMES
 - 32 AND ADDRESSES OF ALL PERSONS WHO INFORMED THE SELLER THAT THEY MAY BE ABLE
 - 33 TO LEND MONEY TO CONSUMERS SOLICITED BY THE SELLER OR TO THE SELLER FOR THE
 - 34 SELLER TO LEND TO CONSUMERS WHO RESPOND TO THE SELLER'S REPRESENTATIONS THAT
 - 35 THE SELLER CAN MAKE A LOAN, ARRANGE A LOAN, ASSIST IN ARRANGING A LOAN OR
 - 36 ASSIST IN PROVIDING INFORMATION THAT CAN LEAD TO OBTAINING A LOAN.
 - 37 3. COPIES OF ALL CONTRACTS BETWEEN THE SELLER AND LENDERS OR
 - 38 PROSPECTIVE LENDERS WHO MAY LEND MONEY:
 - 39 (a) TO THE SELLER TO LEND TO CONSUMERS WHO, IN CONJUNCTION WITH THE
 - 40 SELLER'S BUSINESS, RESPOND TO THE SELLER'S REPRESENTATIONS THAT THE SELLER
 - 41 CAN MAKE A LOAN, ARRANGE A LOAN, ASSIST IN ARRANGING A LOAN OR ASSIST IN
 - 42 PROVIDING INFORMATION THAT CAN LEAD TO OBTAINING A LOAN.
 - 43 (b) DIRECTLY TO CONSUMERS TO WHOM THE SELLER MAY REPRESENT THAT IT CAN
 - 44 ARRANGE OR ASSIST IN PROVIDING INFORMATION THAT CAN LEAD TO OBTAINING A LOAN.

1 F. IF ANY CHANGE IS MADE TO ANY SCRIPT, OUTLINE, PRESENTATION, SALES
2 INFORMATION OR LITERATURE TO BE USED BY A SELLER DURING ANY SOLICITATION, THE
3 SELLER SHALL SUBMIT THE NEW OR REVISED MATERIAL BEFORE IT IS USED.

4 G. COMPLIANCE WITH THE REGISTRATION AND FILING REQUIREMENTS OF THIS
5 ARTICLE BY A SELLER DOES NOT CONSTITUTE AN APPROVAL OR ENDORSEMENT BY THIS
6 STATE OF THE SELLER'S REGISTRATION DOCUMENTS OR CONDUCT.

7 Sec. 3. Section 44-1273, Arizona Revised Statutes, is amended to read:
8 44-1273. Exemptions; definition

9 A. The following persons are not required to register and are exempt
10 from this article:

11 1. A person acting within the scope of a license issued under title
12 6, 20 or 32 or by the ~~securities division of the~~ corporation commission
13 pursuant to this title, EXCEPT THIS PARAGRAPH SHALL NOT EXEMPT PERSONS
14 LICENSED UNDER TITLE 6, CHAPTER 13.

15 2. IF SOLICITING WITHIN THE SCOPE OF THE LICENSE, ANY LICENSED
16 SECURITIES, COMMODITIES OR INVESTMENTS BROKER, DEALER OR INVESTMENT ADVISOR
17 OR ANY LICENSED ASSOCIATED PERSON OF A SECURITIES, COMMODITIES OR INVESTMENTS
18 BROKER, DEALER OR INVESTMENT ADVISOR.

19 3. AN ISSUER OR A SUBSIDIARY OF AN ISSUER THAT HAS A CLASS OF
20 SECURITIES THAT IS SUBJECT TO SECTION 12 OF THE SECURITIES EXCHANGE ACT OF
21 1934 (15 UNITED STATES CODE SECTION 78a THROUGH 7811) AND THAT IS EITHER
22 REGISTERED OR EXEMPT FROM REGISTRATION UNDER PARAGRAPH (A), (B), (C), (E),
23 (F), (G) OR (H) OR SUBSECTION (g) (2) OF SECTION 12 OF THE ACT. A SUBSIDIARY
24 OF AN ISSUER THAT QUALIFIES FOR EXEMPTION UNDER THIS PARAGRAPH IS NOT EXEMPT
25 UNLESS AT LEAST SIXTY PER CENT OF THE VOTING POWER OF THE SUBSIDIARY'S SHARES
26 IS OWNED BY THE QUALIFYING ISSUER OR ISSUERS.

27 ~~2.~~ 4. A person certificated or regulated by the corporation
28 commission pursuant to title 40, chapter 2 or a subsidiary of that person OR
29 A FEDERAL COMMUNICATIONS COMMISSION LICENSED CELLULAR TELEPHONE COMPANY OR
30 RADIO TELECOMMUNICATION SERVICES PROVIDER.

31 ~~3. A person making telephone solicitations on behalf of an~~
32 ~~organization which is exempt from taxation of income under section 43-1201~~
33 ~~if the organization's records are open to public inspection.~~

34 5. A PERSON WHO IS REGISTERED WITH THE SECRETARY OF STATE PURSUANT TO
35 SECTION 44-6552 OR WHO IS EXEMPT FROM REGISTRATION PURSUANT TO SECTION
36 44-6553.

37 ~~4.~~ 6. A person making telephone solicitations for a newspaper of
38 general circulation, magazine or a licensed or franchised cable television
39 system.

40 ~~5.~~ 7. An issuer or subsidiary of an issuer which is subject to
41 registration under chapter 12, article 6 or 7 of this title or which is
42 exempt from registration under section 44-1843, paragraph 1, 2, 3, 4, 5, 7
43 or 9.

1 ~~6-~~ 8. A person making telephone solicitations for the sale or
2 purchase of books, recordings, videocassettes and similar goods through a
3 membership group or club regulated by the federal trade commission or through
4 a contractual plan or arrangement such as a continuity plan, subscription
5 arrangement, series arrangement or single purchase under which the seller
6 ships goods to a consumer who has consented in advance to receive such goods
7 and the recipient is given the opportunity to review goods for at least seven
8 days and to receive a full refund for return of undamaged goods.

9 ~~7. A person making telephone solicitations from prospective purchasers~~
10 ~~who have previously made a purchase from the business enterprise for which~~
11 ~~the person is making the solicitation.~~

12 9. A PERSON OR SOLICITOR FOR A PERSON WHEN SOLICITING PREVIOUS
13 CUSTOMERS, IF ALL OF THE FOLLOWING APPLY:

14 (a) THE PERSON IS NOT OFFERING TO SELL OR SELLING A SECURITY THAT IS
15 NOT REGISTERED WITH ANY STATE OR FEDERAL AUTHORITY.

16 (b) THE PERSON MAKES THE SOLICITATION UNDER THE SAME NAME AS THE NAME
17 USED TO SELL MERCHANDISE TO THE CUSTOMER PREVIOUSLY.

18 (c) THE PERSON DOES NOT OPERATE A RECOVERY SERVICE.

19 (d) THE PERSON DOES NOT CONDUCT A PRIZE PROMOTION THAT REQUIRES OR
20 IMPLIES THAT TO WIN A CONSUMER MUST PAY MONEY OR PURCHASE MERCHANDISE.

21 (e) THE PERSON HAS NOT, OR ANY OF ITS PRINCIPALS HAVE NOT, WITHIN
22 TWENTY YEARS BEEN CONVICTED IN ANY STATE OF A FELONY OR CRIME OF MORAL
23 TURPITUDE, BREACH OF TRUST, FRAUD, THEFT, DISHONESTY OR VIOLATION OF
24 TELEPHONE SOLICITATION LAWS, BEEN SUBJECT TO A FINAL JUDGMENT IN A CIVIL
25 ACTION INVOLVING FRAUD, DECEIT OR MISREPRESENTATION OR BEEN SUBJECT TO AN
26 ADMINISTRATIVE ORDER INVOLVING FRAUD, DECEIT, MISREPRESENTATION OR ANY
27 VIOLATION OF TELEPHONE SOLICITATIONS LAWS OF ANY AGENCY OF THIS STATE,
28 ANOTHER STATE, THE FEDERAL GOVERNMENT, A TERRITORY OF THE UNITED STATES OR
29 ANOTHER COUNTRY.

30 ~~8-~~ 10. A person making telephone solicitations without the intent to
31 complete and who does not complete the sales presentation during the
32 telephone solicitation but completes the sales presentation at a later
33 face-to-face meeting between the solicitor and the ~~prospective purchaser~~
34 CONSUMER provided that the later face-to-face meeting is not for the purpose
35 of collecting the payment or delivering any item purchased.

36 11. A PERSON WHO AFTER MAKING A TELEPHONE CONTACT WITH A CONSUMER SENDS
37 THE CONSUMER DESCRIPTIVE LITERATURE AND DOES NOT REQUIRE PAYMENT BEFORE THE
38 CONSUMER'S REVIEW OF THE DESCRIPTIVE LITERATURE AND THE PERSON IS NOT
39 CONDUCTING A SOLICITATION INVOLVING ANY OF THE FOLLOWING:

40 (a) THE SALE OF AN INVESTMENT OR AN OPPORTUNITY FOR AN INVESTMENT THAT
41 IS NOT REGISTERED WITH ANY STATE OR FEDERAL AUTHORITY.

42 (b) A PRIZE PROMOTION OR PREMIUM.

43 (c) A RECOVERY SERVICE.

1 9- 12. A person making telephone solicitations exclusively for the
2 purpose of the sale of telephone answering services to be provided by that
3 person or that person's employer.

4 13. ANY BANK HOLDING COMPANY, BANK, FINANCIAL INSTITUTION, TRUST
5 COMPANY, SAVINGS AND LOAN ASSOCIATION, CREDIT UNION, MORTGAGE BANKER OR
6 BROKER, CONSUMER LENDER OR INSURER, WHICH IS LICENSED OR SUPERVISED BY AN
7 OFFICIAL OR AGENCY OF THIS STATE, ANY OTHER STATE OR THE UNITED STATES,
8 INCLUDING ANY PARENT, SUBSIDIARY OR AFFILIATE OF THESE INSTITUTIONS.

9 14. A PERSON OR SOLICITOR FOR A PERSON WHO OPERATES A RETAIL BUSINESS
10 ESTABLISHMENT UNDER THE SAME NAME AS THE NAME USED IN THE SOLICITATION OF
11 SALES BY TELEPHONE, IF ON A CONTINUING BASIS ALL OF THE FOLLOWING APPLY:

12 (a) MERCHANDISE IS DISPLAYED AND OFFERED FOR SALE OR SERVICES ARE
13 OFFERED FOR SALE AND PROVIDED AT THE PERSON'S BUSINESS ESTABLISHMENT.

14 (b) AT LEAST FIFTY PER CENT OF THE PERSON'S BUSINESS INVOLVES THE
15 BUYER OBTAINING THE MERCHANDISE AT THE PERSON'S BUSINESS ESTABLISHMENT.

16 (c) THE PERSON HOLDS A TRANSACTION PRIVILEGE TAX LICENSE PURSUANT TO
17 TITLE 42, CHAPTER 8.

18 15. A PERSON PROVIDING TELEMARKETING SALES SERVICE CONTINUOUSLY FOR AT
19 LEAST FIVE YEARS UNDER THE SAME OWNERSHIP AND CONTROL THAT DERIVES SEVENTY-
20 FIVE PER CENT OF ITS GROSS TELEMARKETING SALES REVENUES FROM CONTRACTS WITH
21 PERSONS EXEMPTED BY THIS SECTION. A SELLER USING AN EXEMPT TELEMARKETING
22 SALES SERVICE IS NOT EXEMPTED UNLESS OTHERWISE QUALIFYING FOR AN EXEMPTION
23 UNDER THIS SECTION.

24 16. A PERSON OR SOLICITOR FOR A PERSON SOLICITING ANOTHER BUSINESS IF
25 ALL OF THE FOLLOWING OCCUR:

26 (a) AT LEAST FIFTY PER CENT OF THE PERSON'S DOLLAR VOLUME CONSISTS OF
27 REPEAT SALES TO EXISTING BUSINESSES.

28 (b) THE PERSON DOES NOT CONDUCT A PRIZE PROMOTION THAT REQUIRES OR
29 IMPLIES THAT TO WIN A CONSUMER MUST PAY MONEY OR PURCHASE MERCHANDISE.

30 (c) NEITHER THE PERSON NOR ANY OF THE PERSON'S PRINCIPALS HAS WITHIN
31 TWENTY YEARS BEEN CONVICTED IN ANY STATE OF A FELONY OR CRIME OF MORAL
32 TURPITUDE, BREACH OF TRUST, FRAUD, THEFT, DISHONESTY OR VIOLATION OF
33 TELEPHONE SOLICITATION LAWS, BEEN SUBJECT TO A FINAL JUDGMENT IN A CIVIL
34 ACTION INVOLVING FRAUD, DECEIT OR MISREPRESENTATION OR BEEN SUBJECT TO AN
35 ADMINISTRATIVE ORDER INVOLVING FRAUD, DECEIT, MISREPRESENTATION OR ANY
36 VIOLATION OF TELEPHONE SOLICITATIONS LAWS OF ANY AGENCY OF THIS STATE,
37 ANOTHER STATE, THE FEDERAL GOVERNMENT, A TERRITORY OF THE UNITED STATES OR
38 ANOTHER COUNTRY.

39 17. A PERSON OR SOLICITOR ON BEHALF OF A PERSON WHO SOLICITS SALES BY
40 PERIODICALLY PUBLISHING AND DELIVERING A CATALOG TO CONSUMERS IF ALL OF THE
41 FOLLOWING APPLY:

42 (a) THE CATALOG CONTAINS A WRITTEN DESCRIPTION OR ILLUSTRATION OF EACH
43 ITEM OFFERED FOR SALE AND THE PRICE OF EACH ITEM OFFERED FOR SALE.

1 (b) THE CATALOG INCLUDES THE BUSINESS ADDRESS OR HOME OFFICE ADDRESS
2 OF THE PERSON.

3 (c) THE CATALOG INCLUDES AT LEAST TWENTY-FOUR PAGES OF WRITTEN
4 MATERIAL AND ILLUSTRATIONS.

5 (d) THE CATALOG IS DISTRIBUTED IN MORE THAN ONE STATE AND HAS AN
6 ANNUAL CIRCULATION BY MAIL OF AT LEAST TWO HUNDRED FIFTY THOUSAND.

7 B. IN ANY CIVIL PROCEEDING ALLEGING A VIOLATION OF THIS ARTICLE, THE
8 BURDEN OF PROVING AN EXEMPTION OR AN EXCEPTION FROM A DEFINITION IS ON THE
9 PERSON CLAIMING THE EXEMPTION OR EXCEPTION: IN ANY CRIMINAL PROCEEDING IN
10 WHICH A VIOLATION OF THIS ARTICLE IS ALLEGED, THE BURDEN OF PRODUCING
11 EVIDENCE TO SUPPORT A DEFENSE BASED ON AN EXEMPTION OR AN EXCEPTION FROM A
12 DEFINITION IS ON THE PERSON CLAIMING THE EXEMPTION OR EXCEPTION.

13 C. ANY PERSON OR SOLICITOR EXEMPTED FROM THIS ARTICLE BY THIS SECTION
14 SHALL NOT MAKE OR SUBMIT A CHARGE TO A CONSUMER'S CREDIT CARD ACCOUNT OR A
15 CONSUMER'S CHECKING, SAVINGS, SHARE OR SIMILAR ACCOUNT UNLESS ANY OF THE
16 FOLLOWING APPLY:

17 1. THE PERSON PROVIDES THAT THE CONSUMER MAY RECEIVE A FULL REFUND FOR
18 THE RETURN OF UNDAMAGED AND UNUSED GOODS OR A CANCELLATION OF SERVICES BY
19 PROVIDING NOTICE TO THE PERSON WITHIN SEVEN DAYS AFTER THE DATE THAT THE
20 CONSUMER RECEIVES THE MERCHANDISE AND THE PERSON PROCESSES:

21 (a) A FULL REFUND WITHIN THIRTY DAYS AFTER THE DATE THAT THE PERSON
22 RECEIVES THE RETURNED MERCHANDISE FROM THE CONSUMER.

23 (b) A FULL REFUND WITHIN THIRTY DAYS AFTER THE PURCHASER OF SERVICES
24 CANCELS AN ORDER FOR THE SERVICES OR A PRO RATA REFUND FOR ANY SERVICES NOT
25 YET PERFORMED FOR THE CONSUMER.

26 2. THE PERSON PROVIDES THE CONSUMER WITH A SIGNED COPY OF A WRITTEN
27 CONTRACT THAT INCLUDES THE PERSON'S NAME, ADDRESS AND BUSINESS TELEPHONE
28 NUMBER AND THAT FULLY DESCRIBES THE MERCHANDISE OFFERED BY THE PERSON, THE
29 TOTAL PRICE TO BE CHARGED BY THE PERSON AND ANY TERMS OR CONDITIONS AFFECTING
30 THE SALE.

31 3. THE PERSON IS AN ORGANIZATION THAT IS REGISTERED WITH THE SECRETARY
32 OF STATE PURSUANT TO SECTION 44-6552 OR THAT IS EXEMPT FROM REGISTRATION
33 PURSUANT TO SECTION 44-6553.

34 Sec. 4. Section 44-1274, Arizona Revised Statutes, is amended to read:
35 44-1274. Bond; amount; filing; beneficiaries; cancellation

36 A. A seller shall maintain a bond of ~~twenty five~~ ONE HUNDRED thousand
37 dollars issued by a surety company duly authorized to do business in this
38 state. The bond shall be filed with the state treasurer. No control or
39 beneficiary interest may be held by the seller in the surety or by the surety
40 company in the seller.

41 B. The bond required by subsection A of this section shall be in favor
42 of this state to be held in trust by the state treasurer for the benefit of
43 ~~a~~ ANY ~~person~~ CONSUMER who suffers financial damage as a result of a

1 violation of this article or an unlawful practice pursuant to section
2 44-1522.

3 C. A ~~person~~ CONSUMER who makes a claim against the bond may maintain
4 an action against the seller and the surety, except that the surety is liable
5 only for any monies paid by the ~~purchaser~~ CONSUMER to the seller or
6 solicitor, plus reasonable attorney fees. The surety bond may be sued upon
7 in successive actions until the full amount is exhausted. A ~~person~~ CONSUMER
8 may not commence suit on the bond more than four years after the act or
9 omission on which the suit is based. Subject to the limitations in this
10 article, a surety is liable for damages for an act or omission ~~occurring~~
11 during the time the bond is in effect.

12 D. The aggregate liability of the surety to all ~~persons~~ CONSUMERS for
13 all breaches of the conditions of the bond provided in this section shall not
14 exceed the amount of the bond.

15 E. A surety for any cause may cancel the bond by giving sixty days'
16 written notice by certified mail of the cancellation to the state treasurer,
17 the attorney general and the seller. On or before the effective date of the
18 cancellation of the bond, the seller shall either obtain a new bond which
19 meets the requirements of this section and file a copy of the new bond with
20 the state treasurer or make a cash deposit.

21 F. In lieu of furnishing the surety bond as required by this section,
22 the seller may deposit with the state treasurer a cash deposit in the
23 required amount.

24 G. The state treasurer shall maintain cash deposited pursuant to this
25 section in an interest bearing trust account on behalf of the depositor.
26 Deposits plus accrued interest may be withdrawn, if there are no outstanding
27 claims against them, four years after the seller ceases to do business in
28 this state. Deposits may be withdrawn ~~sixty days~~ FOUR YEARS after the filing
29 of a surety bond as a replacement to the cash deposit.

30 Sec. 5. Section 44-1276, Arizona Revised Statutes, is amended to read:

31 44-1276. Required disclosures; payment for goods;
32 identification of solicitor; cancellation of
33 telephone solicitation sale; notice of right to
34 cancel; definition

35 A. ~~Before the consummation of a sale a solicitor shall disclose to all~~
36 ~~prospective purchasers the complete street address of the physical location~~
37 ~~from where he is making the telephone solicitation and the legal name of the~~
38 ~~seller.~~ BEGINNING THE SOLICITATION OR SALES PRESENTATION OVER THE TELEPHONE,
39 THE SOLICITOR SHALL DISCLOSE TO THE CONSUMER:

40 1. THE COMPLETE STREET ADDRESS OF THE PHYSICAL LOCATION FROM WHICH THE
41 SOLICITOR IS MAKING THE TELEPHONE SOLICITATION AND THE COMPLETE STREET
42 ADDRESS OF THE SELLER'S PRINCIPAL LOCATION.

43 2. THE LEGAL NAME OF THE SELLER ON WHOSE BEHALF THE SOLICITOR IS
44 MAKING THE SOLICITATION.

3. THE SOLICITOR'S TRUE LEGAL NAME.

4. THAT THE PURPOSE OF THE CALL IS TO SELL MERCHANDISE.

B. DURING ANY SOLICITATION OR SALES PRESENTATION MADE BY THE SOLICITOR AND IN ANY WRITTEN CORRESPONDENCE PROVIDED TO THE CONSUMER AS PART OF THE SOLICITATION, THE SOLICITOR SHALL CLEARLY AND CONSPICUOUSLY DISCLOSE TO THE CONSUMER:

1. ANY CHARGE, INCLUDING THE AMOUNT FOR THE USE OF ANY PREMIUM BEING OFFERED.

2. ANY MATERIAL RESTRICTION, REQUIREMENT, CONDITION, LIMITATION OR EXCEPTION THAT IS ASSOCIATED WITH THE USE OF THE PREMIUM.

3. ANY CHARGE CONNECTED WITH THE SALE OF MERCHANDISE.

4. THE TIME PERIOD WITHIN WHICH ANY PREMIUM WILL BE DELIVERED.

5. THE CONSUMER'S RIGHT TO CANCEL THE TRANSACTION PURSUANT TO SUBSECTION C.

~~B.~~ C. In addition to any right to otherwise revoke an offer, the ~~purchaser~~ CONSUMER may cancel a telephone solicitation sale up to midnight of the third business day after the receipt of the merchandise or premium, whichever is later.

~~C.~~ D. No ~~order for the~~ TELEPHONE SOLICITATION sale of ~~any merchandise~~ is effective unless the ~~purchaser~~ CONSUMER is both:

1. Advised orally and in writing of the legal name, telephone number and complete street address of the physical location of the seller.

2. Advised orally of the right of cancellation along with a written notice containing the following information:

Notice of Cancellation

1. You may cancel this order without any penalty or obligation within three business days from the delivery of the merchandise or premium (gift, bonus, prize or award), whichever is later.

2. If you cancel, any payments made by you will be returned within ten days after the receipt by the seller of your notice of cancellation.

3. To cancel this transaction, mail or deliver a signed and dated copy of your cancellation notice or send a telegram to

_____ at _____.
(Name of seller) (Address of seller's place of business)

4. If you cancel, any merchandise or premium delivered to you must be returned at our expense to _____

(Name of seller)
at _____

(Address of seller's place of business) no later than twenty-one business days after the receipt of this merchandise or premium, whichever is later.

