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HOME SALES: PROHIBIT EARLY COURIER COLLECTIONS

House Bill 4644 as passed by the House
Sponsor: Rep. Paul Wojno

House Bill 4645 as passed by the House
Sponsor: Rep. Rick Johnson

Committee: Insurance and Financial
Services

Revised First Analysis (7-16-99)

THE APPARENT PROBLEM:

The Home Solicitation Sales Act covers sales of goods or services of more than \$25 in which the seller or someone acting for the seller engages in a personal, written, or telephone solicitation at the residence of the buyer, and the buyer's agreement or offer to purchase is provided at the residence. Generally speaking, the act permits a buyer to cancel a home solicitation sale until midnight of the third business day after the day on which the buyer signs an agreement or offer to purchase. This is sometimes referred to a "cooling-off" period. One of the purposes of the act is to protect consumers from unscrupulous, high-pressure marketing operations. There are reports of some marketers using couriers or other third parties to pick up payments at the homes of consumers as part of their heavy pressure tactics. This tactic, reportedly, is beneficial to an unscrupulous marketer because it prevents the consumer from taking the time to evaluate the transaction and also because it might help the marketer avoid mail fraud charges. Legislation has been introduced that would prevent courier and third-party pick-ups of payments at least during the cooling off period provided by the Home Solicitation Sales Act.

THE CONTENT OF THE BILLS:

The bills would prohibit the seller in a home solicitation sale from having an independent courier service or other third party pick up the buyer's payment at the buyer's residence before the expiration of the buyer's right-to-revoke period; that is, during the period the consumer is entitled to cancel the sale. House Bill 4644 would amend the Michigan Consumer Protection Act (MCL 445.903). House Bill 4645

would amend the Home Solicitation Sales Act (MCL 445.112 and 445.113). The two bills are tie-barred.

FISCAL IMPLICATIONS:

There is no information at present.

ARGUMENTS:

For:

The Home Solicitation Sales Act provides protection for consumers against high pressure tactics of salespersons who attempt to sell products or services to people at their homes, often by telephone. The act offers a means for a consumer to reflect and change his or her mind about a purchase and rescind the transaction within three days. House Bill 4645 adds to the act's protections by prohibiting sellers from using couriers or other third parties to collect payments from buyers during the three day right-to-rescind or cooling off period. House Bill 4644 puts the same protections into the Michigan Consumer Protection Act. The use of third parties to collect can be viewed as another high pressure (sometimes intimidating) tactic by unscrupulous marketers. The bill is modeled on legislation recently enacted in Vermont, according to supporters.

POSITIONS:

There are no positions at present.

Analyst: C. Couch

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.