

# HOUSE BILL No. 4318

February 23, 1999, Introduced by Reps. Sanborn, Law, Raczkowski, Kuipers, Pappageorge, Kowall, Wojno, Bishop, Julian, Tabor, Richner, Rick Johnson and Jansen and referred to the Committee on Insurance and Financial Services.

A bill to amend 1971 PA 227, entitled  
"An act to prescribe the rights and duties of parties to home solicitation sales,"  
by amending section 1 (MCL 445.111), as amended by 1998 PA 126.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 1. As used in this act:  
2       (a) "Home solicitation sale" means a sale of goods or serv-  
3 ices of more than \$25.00 in which the seller or a person acting  
4 for the seller engages in a personal, ~~written, or~~ telephonic,  
5 OR WRITTEN solicitation of the sale, the solicitation is received  
6 by the buyer at a residence of the buyer, and the buyer's agree-  
7 ment or offer to purchase is there given to the seller or a  
8 person acting for the seller. ~~Home solicitation sale includes a~~  
9 ~~sale arising from a postcard or other written notice delivered to~~  
10 ~~a buyer's residence that requests that the buyer contact the~~

~~1 seller or seller's agent by telephone to inquire about a good or  
2 service, unless a postcard or other written notice concerns a  
3 previous purchase or order or specifies the price of the good or  
4 service and accurately describes the good or service. Home~~

5 solicitation sale does not include ~~a~~ ANY OF THE FOLLOWING:

6 (i) A sale made pursuant to a preexisting revolving charge  
7 account. ~~, a~~

8 (ii) A sale made pursuant to prior negotiations between the  
9 parties at a business establishment at a fixed location where  
10 goods or services are offered or exhibited for sale. ~~, a~~

11 (iii) A sale of insurance by an insurance agent licensed by  
12 the commissioner of insurance. ~~, a~~

13 (iv) A SALE MADE AT A FIXED LOCATION OF A BUSINESS ESTAB-  
14 LISHMENT WHERE GOODS OR SERVICES ARE OFFERED OR EXHIBITED FOR  
15 SALE.

16 (v) A sale made pursuant to a printed advertisement in a  
17 publication of general circulation. ~~, or a~~

18 (vi) A sale of services by a real estate broker or salesper-  
19 son licensed by the department of consumer and industry  
20 services. ~~Home solicitation sale does not include a~~

21 (vii) A sale of agricultural or horticultural equipment and  
22 machinery that is demonstrated to the consumer by the vendor at  
23 the request of either or both of the parties.

24 (b) "Fixed location" means a place of business where the  
25 seller or an agent, servant, employee, or solicitor of that  
26 seller primarily engages in the sale of goods or services of the  
27 same kind as would be sold at the residence of a buyer.

1 (c) "Business day" means Monday through Friday and does not  
2 include Saturday, Sunday, or the following business holidays:  
3 New Year's day, Martin Luther King's birthday, Washington's  
4 birthday, Memorial day, Independence day, Labor day, Columbus  
5 day, Veterans' day, Thanksgiving day, and Christmas day.

6 (D) "FEDERALLY INSURED DEPOSITORY INSTITUTION" MEANS A STATE  
7 OR NATIONAL BANK, STATE OR FEDERAL SAVINGS BANK, STATE OR FEDERAL  
8 SAVINGS AND LOAN ASSOCIATION, OR STATE OR FEDERAL CREDIT UNION  
9 THAT HOLDS DEPOSITS INSURED BY AN AGENCY OF THE UNITED STATES.

10 (E) "GOODS OR SERVICES" DOES NOT INCLUDE EITHER OF THE  
11 FOLLOWING:

12 (i) A LOAN, DEPOSIT ACCOUNT, OR TRUST ACCOUNT LAWFULLY  
13 OFFERED OR PROVIDED BY A FEDERALLY INSURED DEPOSITORY INSTITUTION  
14 OR A SUBSIDIARY OR AFFILIATE OF A FEDERALLY INSURED DEPOSITORY  
15 INSTITUTION.

16 (ii) AN EXTENSION OF CREDIT THAT IS SUBJECT TO ANY OF THE  
17 FOLLOWING ACTS:

18 (A) THE MORTGAGE BROKERS, LENDERS, AND SERVICERS LICENSING  
19 ACT, 1987 PA 173, MCL 445.1651 TO 445.1684.

20 (B) THE SECONDARY MORTGAGE LOAN ACT, 1981 PA 125, MCL 493.51  
21 TO 493.81.

22 (C) THE REGULATORY LOAN ACT OF 1963, 1939 PA 21, MCL 493.1  
23 TO 493.26.

24 (D) THE CONSUMER FINANCIAL SERVICES ACT, 1988 PA 161, MCL  
25 487.2051 TO 487.2072.

26 (E) 1984 PA 379, MCL 493.101 TO 493.114.

1 (F) THE MOTOR VEHICLE SALES FINANCE ACT, 1950 (EX SESS) PA  
2 27, MCL 492.101 TO 492.141.

3 (F) "WRITTEN SOLICITATION" MEANS A POSTCARD OR OTHER WRITTEN  
4 NOTICE DELIVERED TO A BUYER'S RESIDENCE THAT REQUESTS THAT THE  
5 BUYER CONTACT THE SELLER OR SELLER'S AGENT BY TELEPHONE TO  
6 INQUIRE ABOUT A GOOD OR SERVICE, UNLESS THE POSTCARD OR OTHER  
7 WRITTEN NOTICE CONCERNS A PREVIOUS PURCHASE OR ORDER OR SPECIFIES  
8 THE PRICE OF THE GOOD OR SERVICE AND ACCURATELY DESCRIBES THE  
9 GOOD OR SERVICE.