

Chapter 5 Home Solicitation Sales

70C-5-101 Definition -- Home solicitation sale.

As used in this chapter, "home solicitation sale" means a consumer credit sale of goods or services in which the seller or a person acting for him engages in a face-to-face solicitation of the sale at a residence or place of employment of the buyer and the buyer's agreement or offer to purchase is there given to the seller or a person acting for him. It does not include a sale made pursuant to preexisting open-end accounts, or a sale made between the parties at a business establishment at a fixed location where goods or services are offered or exhibited for sale.

Enacted by Chapter 159, 1985 General Session

70C-5-102 Buyer's right to cancel.

- (1) Except as provided in Subsection (5), in addition to any right otherwise to revoke an offer, the buyer has the right 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 which complies with this chapter.
- (2) Cancellation occurs when the buyer gives written notice of cancellation to the seller at the address stated in the agreement or offer to purchase.
- (3) Notice of cancellation, if given by mail, is given when it is deposited in a mailbox properly addressed and postage prepaid.
- (4) Notice of cancellation given by the buyer need not take a particular form and is sufficient if it indicates by any form of written expression the intention of the buyer not to be bound by the home solicitation sale.
- (5) The buyer may not cancel a home solicitation sale if:
 - (a) the buyer requests the seller to provide goods or services without delay because of an emergency;
 - (b) the seller in good faith makes a substantial beginning of performance of the contract before the buyer gives notice of cancellation; and
 - (c) in the case of goods, the goods cannot be returned to the seller in substantially as good condition as when received by the buyer.
- (6) This section does not displace any rights the buyer may have under other sections of this title, other statutes of this state, or federal law.

Enacted by Chapter 159, 1985 General Session

70C-5-103 Form of agreement or offer -- Statement of buyer's rights.

- (1) In a home solicitation sale, unless the buyer requests the seller to provide goods or services without delay in an emergency, the seller shall present to the buyer and obtain his signature to a written agreement or offer to purchase which designates as the date of the transaction the date on which the buyer actually signs and contains a statement of the buyer's rights which complies with Subsection (2).
- (2) The statement shall:
 - (a) appear under the conspicuous caption: "BUYER'S RIGHT TO CANCEL"; and
 - (b) read as follows:

"If this agreement was solicited at your residence or place of employment and you do not want the goods or services, you may cancel this agreement by mailing a notice to the seller. The notice must say that you do not want the goods or services and must be mailed before midnight on the third business day after you sign this agreement. The notice must be mailed to: _____ (insert name and mailing address of seller)."

- (3) Compliance with any notice of cancellation or similar requirement of any rule of the Federal Trade Commission which by its terms applies to a home solicitation sale covered by this title is deemed compliance with Subsection (2)(b) if compliance is totally consistent with this title.
- (4) Until the seller has complied with this section the buyer may cancel the home solicitation sale by notifying the seller in any manner and by any means of his intention to cancel.

Enacted by Chapter 159, 1985 General Session

70C-5-104 Restoration of down payment.

- (1) Within 10 days after a home solicitation sale has been canceled or an offer to purchase revoked the seller shall tender to the buyer any payments made by the buyer and any note or other evidence of indebtedness.
- (2) If the down payment includes goods traded in, the goods shall be tendered in substantially as good condition as when received by the seller. If the seller fails to tender the goods as provided by this section, the buyer may recover an amount equal to the trade-in allowance stated in the agreement.
- (3) A provision permitting the seller to keep all or any part of any payment, note, or evidence of indebtedness is in violation of this section and unenforceable.
- (4) Until the seller has complied with the obligations imposed by this section the buyer may retain possession of goods delivered to him by the seller and has a lien on the goods in his possession or control for any recovery to which he is entitled.

Enacted by Chapter 159, 1985 General Session

70C-5-105 Duty of buyer -- No compensation for services prior to cancellation.

- (1) Except as provided by the provisions on retention of goods by the buyer under Subsection 70C-5-104(4), within a reasonable time after a home solicitation sale has been canceled or an offer to purchase revoked, the buyer upon demand shall tender to the seller any goods delivered by the seller pursuant to the sale, but he is not obligated to tender at any place other than his residence or place of employment. If the seller fails to demand possession of goods within a reasonable period of time after cancellation or revocation, the goods become the property of the buyer without obligation to pay for them. For the purpose of this section, 40 days is a reasonable period of time.
- (2) The buyer has a duty to take reasonable care of the goods in his possession before cancellation or revocation and for a reasonable time thereafter, during which time the goods are otherwise at the seller's risk.
- (3) If the seller has performed any services pursuant to a home solicitation sale prior to its cancellation, the seller is entitled to no compensation.

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