

House File 229

H-1027

1 Amend House File 229 as follows:

2 1. Page 1, after line 15 by inserting:

3 <Sec. _____. Section 714.16, subsection 2, Code 2015,
4 is amended by adding the following new paragraph:

5 NEW PARAGRAPH. o. (1) It is an unlawful practice
6 for a person to make a free offer to a consumer, or
7 impose a financial obligation on the consumer as a
8 result of the consumer's acceptance of a free offer,
9 unless the person provides the consumer with clear and
10 conspicuous information regarding the terms of the free
11 offer before the consumer agrees to accept the free
12 offer, including at a minimum all of the following:
13 (a) Identification of all goods or services, or
14 enrollments in a membership, subscription, or service
15 contract, that the consumer will receive or incur a
16 financial obligation for as a result of accepting the
17 free offer.

18 (b) The cost to the consumer of any financial
19 obligation the consumer will incur if the consumer
20 accepts the free offer, including any fees or charges.

21 (c) Any requirement, if applicable, that the
22 consumer take affirmative action to reject the free
23 offer and instructions about how the consumer is to
24 indicate the consumer's rejection of the free offer.

25 (d) A statement, if applicable, that by accepting
26 the free offer, the consumer will become obligated
27 for additional goods or services, or enrollment in
28 a membership, subscription, or service contract,
29 unless the consumer takes affirmative action to cancel
30 the free offer or otherwise reject receipt of the
31 additional goods or services or the enrollment in a
32 membership, subscription, or service contract.

33 (e) Except as provided in subparagraph division
34 (h), the consumer's right to cancel the free offer
35 using procedures specifically intended for that purpose
36 that, at a minimum, enable the consumer to cancel by
37 calling a toll-free telephone number or to cancel in
38 a manner substantially similar to that by which the
39 consumer accepted the free offer.

40 (f) The time period during which the consumer
41 must cancel in order to avoid incurring a financial
42 obligation as a result of accepting the free offer.

43 (g) If applicable, the consumer's right to receive
44 a credit on goods or services received as a result of
45 accepting the free offer when the goods or services are
46 returned or rejected, and the time period during which
47 the goods or services must be returned or rejected for
48 the purpose of receiving a credit.

49 (h) With respect to a free offer that is for a
50 publication, including but not limited to a magazine,

1 newspaper, or other periodical, a statement that
2 the consumer will receive, at the time the consumer
3 receives an invoice to pay for the publication,
4 information regarding the consumer's right to cancel
5 the free offer and an explanation of the procedure to
6 cancel the free offer, including but not limited to
7 written notice of cancellation by mail to the person
8 providing the free offer.

9 (2) It is an unlawful practice for a person to
10 cause a consumer to incur a financial obligation as
11 a result of accepting a free offer unless one of the
12 following occurs:

13 (a) The person obtains the consumer's billing
14 information directly from the consumer. For purposes
15 of this subparagraph division, a person obtains a
16 consumer's billing information directly from the
17 consumer if the billing information is obtained by the
18 person or by the person's agent or employee.

19 (b) The consumer gives affirmative consent at the
20 time the consumer accepts a free offer for the person
21 to provide billing information to a person other than
22 the person making the free offer.

23 (3) It is an unlawful practice for a person to
24 impose a financial obligation on a consumer as a result
25 of the consumer's acceptance of a free offer unless the
26 consumer's affirmative consent to the terms of the free
27 offer as disclosed in subparagraph (1) is obtained.

28 (4) It is an unlawful practice for a person that
29 makes a free offer to a consumer to fail or refuse to
30 cancel the free offer if the consumer has used, or
31 made reasonable efforts to attempt to use, one of the
32 procedures required to be available to the consumer as
33 described in subparagraph (1), subparagraph division
34 (e).

35 (5) This paragraph "o" does not apply to free
36 offers made in connection with services that are
37 subject to the federal Communications Act of 1934, 47
38 U.S.C. §151 et seq.

39 (6) For purposes of this paragraph "o":

40 (a) "*Affirmative consent*" means a consumer's
41 agreement to incur a financial obligation as a result
42 of accepting a free offer, or to provide the consumer's
43 billing information, given or made in the manner
44 specifically identified for the consumer to indicate
45 the consumer's agreement.

46 (b) "*Billing information*" means any record or
47 information compiled or maintained with respect to a
48 consumer that identifies the consumer and provides a
49 means by which the consumer's financial obligation
50 incurred by accepting a free offer may be paid or

1 otherwise satisfied, including but not limited to
2 information pertaining to a consumer's credit card,
3 payment card, charge card, debit card, checking,
4 savings, or other banking account, and electronic funds
5 transfer information.

6 (c) "*Clear and conspicuous information*" means
7 language that is readily understandable and presented
8 in such size, color, contrast, and location, or
9 audibility and cadence, compared to other language, as
10 to be readily noticed and understood, and that is in
11 close proximity to the request for consent to a free
12 offer.

13 (d) "*Consumer*" means an individual who seeks to
14 accept or accepts a free offer.

15 (e) (i) "*Free offer*" means an offer of goods or
16 services without cost, or for a one-time payment to
17 cover only incidental charges such as shipping or
18 handling, to a consumer that, if accepted, causes the
19 consumer to incur a financial obligation for any of the
20 following:

21 (A) The goods or services received.

22 (B) Additional goods or services other than those
23 initially received.

24 (C) Enrollment in a membership, subscription, or
25 service contract as a result of accepting the offer.

26 (ii) "*Free offer*" does not include a free good or
27 service that is received by a consumer as a result
28 of the consumer's entering into an agreement for
29 enrollment in a membership, subscription, or service
30 contract that is not otherwise a free offer or a
31 consequence of the consumer's agreement to accept a
32 free offer.>

33 2. Title page, line 1, after <of> by inserting
34 <free offers and>

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