



*Helping Older Persons With
Legal & Long-Term Care
Problems*

Home Solicitation

Sales Problems:

What To Do When You've Been Talked Into Buying Something You Don't Want

1. What is a home solicitation sale?

A home solicitation sale is a sale of consumer goods or services in which the seller or his or her agent personally solicits the sale at your home and you agree to buy at your home or somewhere other than the seller's place of business. It includes telephone calls from the seller and may include instances when the seller is responding to your invitation to come to your home.

2. What are consumer goods or services?

Consumer goods or services are those purchased, leased or rented, for personal, family or household purposes. In other words, most anything you buy. It also includes courses, instruction or training. Consumer goods or services do not include land, securities, commodities, insurance, automobile-related goods or services or property sold at auction.

3. What is not a home solicitation sale?

A home solicitation sale does not include transactions (a) made entirely by phone or mail and initiated by you, the buyer; (b) made after earlier negotiations at the seller's place of business; (c) initiated by you, the buyer, where the seller has a fixed place of business in the state, such as a store; (d) when you contact the seller to buy goods or services that you need to meet an immediate personal emergency, and you give up the right to cancel; or (e) when you ask the seller to visit your home to repair or maintain your personal property. However, if the seller sells you anything other than replacement items, it may be a covered transaction.

4. Does the amount of the home solicitation sale affect my rights?

Yes. The total purchase price must be \$25 or more for you to be protected by Ohio's Home Solicitation Sales Act.

5. What is Ohio's Home Solicitation Sales Act?

This law protects you, the consumer, when there has been a home solicitation sale. It gives you the right to cancel the sale within three business days. Only Sundays and holidays are not business days.

If the seller violates this Act, you have the right to sue the seller and either cancel the sale or recover three times the amount of actual damages or \$200, whichever is greater. In addition, if you successfully sue the seller, you may also be reimbursed for any reasonable attorney's fees and court costs.

6. What papers should I receive when I purchase something through a home solicitation sale?

Every home solicitation sale must include a written agreement stating the name and address of the seller, and must be dated and signed by the buyer and seller. The seller is required to give you a copy of the agreement in writing. Also, the agreement must contain a statement telling you that you may cancel the sale before midnight of the third business day after the date of the sale. A completed notice of cancellation, plus a copy, must be attached to the contract. It should be easy to detach from the contract and written in the same language, English or Spanish, used in the agreement.

The notice tells you your rights, obligations and duties in case you cancel the sale. The notice must contain the date by which you can cancel the sale and not be responsible for the contract. If the seller does not include this notice, the three-day period does not begin to run and you can still cancel the sale after the three-day period is over. In addition to the written notice, the seller must verbally inform you of your right to cancel.

7. If I decide to cancel the contract, what should I do?

You must sign and deliver the written notice of cancellation to the seller at the address stated in the agreement, within three business days from the date on the contract. If you mail the notice of cancellation, the cancellation of the sale goes into effect on the date of the postmark. Be sure to get a receipt called "proof of mailing" from the Post Office.

If you hand-deliver the notice to the seller or the seller's address, the sale is canceled on the day you deliver it. Simply telling the seller you want to cancel does not cancel the contract. You must put your notice of cancellation in writing.

8. If I made a down payment or a trade-in, can I get my money or my goods back after cancellation?

Yes. When the sale has been canceled, the seller must return all down payments made under the contract. The seller cannot charge you a cancellation fee and must give you a full refund. The seller is required to return any goods or property that you traded in. They must be

in basically as good condition as when received. If your goods are not returned, you may choose to accept cash value that is equal to the trade-in allowance stated in the agreement.

9. How soon after cancellation can I expect my refund or the return of my goods?

Your money and/or your goods must be returned to you within ten business days after the seller receives your notice of cancellation.

10. If I have canceled the contract, what do I do with the seller's goods?

Within ten business days of your notice of cancellation, the seller must let you know whether they intend to pick up or abandon any goods shipped or delivered to you. If the seller demands that you return the goods, you must make them available. You do not have to make the goods available anywhere other than at your home. In other words, the seller has to come to your home to claim them. If you make the goods available and the seller does not pick them up within twenty days of your notice of cancellation, the goods then belong to you. You do not have to pay for them. You must take reasonable care of the goods for this twenty-day period. After that period, they are held at the seller's risk, and you are no longer responsible for their condition. If the agreement required the seller to provide services, the seller should not begin performing services during the period in which you can still cancel. If the seller does provide such services and you rightfully cancel, you do not have to pay for those services.

11. What happens if I do not follow the requirements of cancellation?

If you do not properly follow these requirements, as stated in the notice of cancellation which you received when you signed the contract, the contract has not been cancelled, and you must still pay the seller. You may have other rights under the law which may release you from the contract. If you have any questions, you should discuss them with an attorney.

12. What should I be careful of when a home solicitor contacts me?

- (a) Do not expect to get something for nothing.
- (b) Do not discuss your personal finances.
- (c) Do not draw cash out of a bank at the suggestion of a stranger.
- (d) Make sure there is a written purchase agreement and that you get a copy of it.
- (e) Make sure that you receive the three-day notice of cancellation form.
- (f) When negotiating for home improvements, get several cost estimates.
- (g) Contact your local Better Business Bureau or Consumer Protection Office to find out if any complaints have been filed against the solicitor.
- (h) Ask the seller for references.
- (i) Do not give your credit card number to telephone solicitors when you did not contact them.
- (j) Do not allow yourself to be pressured into purchasing an item or service.

13. What about hearing aids?

There is a special law for hearing aids. Regardless of where they were purchased, hearing aids bought from doctors, audiologists, and hearing aid dealers and fitters, may be returned for any reason within 30 days of original delivery, if returned undamaged and with proof of purchase. The 30 day period does not include any time that the seller has possession of the hearing aid after the original delivery, such as for time spent making adjustments or repairs.

If returned within 30 days, Ohio law also requires sellers to refund, within 15 days of the hearing aids return, the full purchase price minus an amount to cover the actual expenses in connection with the hearing aid. Sellers are required to notify you of these provisions of the law and attach to your receipt a legal form explaining your rights and the amount that will be deducted for expenses incurred.

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Pro Seniors' Legal Hotline for Older Ohioans provides free legal information and advice by toll-free telephone to all residents of Ohio age 60 or older. If you have a concern that cannot be resolved over the phone, then the hotline will try to match you with an attorney who will handle your problem at a fee you can afford.

In southwest Ohio, Pro Seniors' staff attorneys and long-term care ombudsmen handle matters that private attorneys do not, such as nursing facility, adult care facility, home care, Medicare, Medicaid, Social Security, protective services, insurance and landlord/tenant problems.

This pamphlet provides general information and not legal advice. The law is complex and changes frequently. Before you apply this information to a particular situation, call Pro Seniors' free Legal Hotline or consult an attorney in elder law.

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