



VIRGINIA
LEGAL AID
SOCIETY

UNFAIR SALES PRACTICES AND CONSUMER FRAUD

Unfair sales practices have existed for as long as people have been buying and selling goods. Long before there was any law protecting consumers, the rule was "buyer beware." Careful shopping still is your best protection.

- Research the person or firm selling the goods or services.
- Inspect the quality of the goods or services, or request samples or references.
- Understand the price and terms of payment, and get it in writing.

What does signing a contract mean?

Signing a contract means you read it, understood it, and agreed with it. This is usually true even if you haven't or couldn't read it. This usually is true even if you were physically or mentally impaired. If you don't understand a contract, get individual legal advice before signing.

There are cases where someone was so impaired that signing the contract was no good. With a few exceptions, once you sign a contract, it is valid and can be enforced right away. There is no "three day cooling off" period, except in the following cases:

- Home solicitation sales, that is, a sale made away from the seller's place of business. This includes in-person, telephone, regular mail, email, or other electronic contacts.
- Home mortgages which are not "purchase money mortgages," that is, a mortgage not taken out to buy the house. This includes, for example, home equity loans.

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Are there laws that protect people who buy things?

When you buy something, the seller must tell the truth. The seller can't use any trick or falsehood. The Virginia Consumer Protection Act says certain practices are fraudulent and unlawful. Among other practices, a seller may not do these things:

- Falsely state the type, source, or quality of a product or service.
- Fail to state that a used, secondhand, repossessed, or defective product is used, secondhand, repossessed or defective.
- Fail to sell at an advertised price.
- Falsely state that a product costs a certain price somewhere else, or previously had a certain price.
- Falsely state that a repair or service was done, or a part was installed.
- Fail to state all conditions and charges for returning goods for refund, exchange or credit.
- Fail to state all conditions and charges for a layaway agreement.
- Use any deception, fraud, false pretense, false promise, or misrepresentation.

If a seller does an unlawful act, you may sue the seller for your damages, or \$500, whichever is greater. If the seller's act was done on purpose, you may sue the seller for three times your damages or \$1,000, whichever is greater.

What is consumer fraud?

Sellers can't make false statements of material (important) facts, with the intent that you rely on them. A sale may be fraudulent if all the following are true:

- The seller made a false statement of fact (not an expression of opinion).
- The seller knew the statement of fact was false.
- The seller intended for you to rely on the false statement of fact.
- You relied on the false statement of fact.
- You lost money or suffered some other loss because you relied on the false statement of fact.

If you are harmed by fraud, you can sue for your damages. However, it is harder to prove fraud than it is to prove that a consumer protection law was violated.

Are there other consumer protection laws?

In addition to the Consumer Protection Act and the rules against fraud, Virginia has more than 45 laws about unfair sales. The following are some of the more important laws.

What is the Home Solicitation Sales Act?

This law covers a sale or rental of a product or service done at any place other than that of the seller's business. Sometimes, this is called a "door-to-door" sale, but it includes any in-person, telephone,

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regular mail, e-mail, or other electronic communications. The seller must give you a statement of your right to cancel the sale. The seller also must give you a separate form that you can use to cancel the sale. You have the right to cancel the sale until midnight of the third business day after you got the statement and the form. Saturday is a business day. Sundays and legal holidays are not business days. You must cancel by a written notice.

Within ten days after you cancel, the seller must give you back any money or trade-in. Until the seller does this, you may keep any product from the seller. If the seller doesn't ask for the product back within twenty days after you cancel, you may keep the product. You also may sue the seller for your damages, or \$500, whichever is greater.

What is the Automobile Repairs Facilities Act?

Before any repair work is done on your car which may cost more than \$25, you have the right to receive a written estimate. The estimate does not have to be given to you before 10:00 a.m. or after 4:00 p.m. This estimate must tell you these things:

- The work to be done.
- The costs of parts and labor.
- The time by which the work will be done.

No work can begin until the written estimate has been given, other than diagnostic work necessary to prepare the estimate. No charge for car repair work can be greater than ten percent more than the written estimate. You have the right to have replaced parts returned to you. A car repair shop must post a sign that tells you about these rights. If the law is violated, you may sue for your damages, or \$500, whichever is greater.

What is the Lease-Purchase Agreement Act?

This law covers rent-to-own contracts. If you enter a rent-to-own contract, you must be given a written agreement. The agreement must say these things:

- The number, amount, and timing of all payments you must make to own the property.
- That you will not own the property until you make all the payments.
- The cash price of the property.
- That you may buy the property.
- That you may end the agreement without penalty by returning the property and making all past due payments.
- Your right to reinstate (or restore) the agreement if you break it.

If you don't make a payment on time, you have five days to reinstate the agreement. You do this by paying all past due payments, any costs of pickup and delivery, and any late fees. If the law is violated, you may sue for your damages, or \$500, whichever is greater.

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What is the Prizes and Gifts Act?

This law covers prizes and gifts, and contests to win prizes and gifts. A seller can't say you have won anything of value unless you get the prize or gift for free, and with no duty to pay anything. This includes language such as "You have won," or "You are the winner of." A seller also can't say you have a chance to win a prize or gift unless you are told these things.

- The value of the prize or gift.
- The actual number of prizes or gifts.
- Your chances of winning each prize or gift.

If the law is violated, you may sue for your damages, or \$500, whichever is greater.

What is the Pay-Per-Call Services Act?

This law covers any telephone call to a "900" number for which you are charged a fee. Before you make a "900" call, you must be told about fees in excess of regular long-distance phone charges; the cost per minute, or flat rate cost, for the call; the average length of a call needed to get the service; and whether more calls are needed to get full service. If the law is violated, you may sue for your damages, or \$500, whichever is greater.

What is a scam?

Many of these laws were passed to protect people against scams. There are many kinds of "scams" which are tricks and deceptive schemes intended to get money from you for nothing in return. In addition to getting your money, some scams try to get your Social Security number, bank account or credit card numbers, or other personal identification information. **DO NOT FALL FOR THIS!** The best thing to keep in mind is that "if it seems too good to be true, it most likely is too good to be true."

A typical scam might work like this:

You get a phone call or email from someone saying that you have won a prize or letter, and that you need to give them your bank account number so they can deposit it. **DON'T DO IT!** Some scammers will say "You've won a big cash prize, but you need to send us a check for fees before we can send it." **DON'T DO IT!**

How can someone protect themselves from becoming a victim of consumer fraud?

There are so many different types of consumer fraud: tax refund scams, fraudulent weight-loss programs, phony lottery or prize schemes, and bogus work-at-home scams. However, there are steps that you can take to avoid becoming a victim:

- **Don't be taken in by appearances.** Phony organizations and scam artists often present a polished and professional image. No matter how appealing, clean cut, or well-spoken a person may appear, or how glossy the brochure images, remember that looks can be deceiving.

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- **Beware of high pressure tactics.** If you are being pressured into buying something, this is a good indicator that this may be consumer fraud. Instead of agreeing to buy right away, stop and take some time to research the item and the business. You can contact the State Corporation Commission to make certain the company is licensed to do business in the state of VA, the Better Business Bureau to see if there are any complaints against the company, and a professional who has experience with the product or service.
- **Get it in writing.** Don't commit to anything that is offered over the phone or in a door-to-door solicitation. Ask for documentation describing the offer being made, what you are expected to pay, and if there are any cancellation policies. Make certain that you read and understand the materials before you agree to anything.
- **Request references.** If an organization is legitimate then it should be able to provide references or some other verification about the company, or group, and what it does or is offering. You should be provided with contact information where you can reach the person who is making the offer, and you should also be able to obtain information about the corporate office or headquarters. If the representative is reluctant to provide you with any of this information, or if they want to just call you instead, then you should immediately be suspicious.
- **Never make a payment up front.** Typically in a scam you will be instructed to provide money or personal information up front in order to receive a prize, new credit card, or even a job. Legitimate businesses will not ask you for money up front for prizes or businesses opportunities, so this is another warning sign that you may be getting involved in a scam.

If you are a victim of unfair sales practices, then you should file a complaint with the following organizations:

The Virginia Department of Agriculture and Consumer Affairs

1100 Bank Street, Suite 100
Richmond, VA 23219

Consumer Protection Hotline: 1-800-552-9963, or
(804) 786-2042 if calling from Richmond or outside Virginia

Business hours are from 8:15 am to 5:00 pm Monday through Friday.

The Office of Consumer Affairs handles problems between individuals and businesses. They do not handle problems between individuals where no business or merchant is involved. They also do not handle problems about products or services intended for business use.

The Office of Consumer Affairs does not give legal advice or representation. They do not file lawsuits for individuals. However, they will investigate your complaint and try to solve your problem. To get their help, you need to submit an Official Consumer Complaint Form. You may obtain this by writing to the Office of Consumer Affairs, or by calling the Consumer Protection Hotline. You can also find the form on the Consumer Affairs website: <http://www.vdacs.virginia.gov/consumers/>.

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Attorney General of Virginia

Office of the Attorney General

Victim Notification Program

900 East Main Street

Richmond, VA 23219

1-800-370-0459 or (804) 786-2071

The attorney general enforces state and federal consumer protection laws, keeping Virginians safe from things like identity theft, consumer fraud, and telemarketing scams. When there is a pattern of deception or other wrongdoing, the Attorney General is authorized to take action to stop illegal actions, and, where appropriate, seek refunds for affected consumers. All complaints should first be submitted to the Virginia Office of Consumer Affairs for investigation. Complaints regarding the internet should be submitted to cybercrime@oag.state.va.us, and should include a copy of the full email and/or web address about which the complaint is being submitted.

Better Business Bureau

Council of Better Business Bureaus

4200 Wilson Blvd, Suite 800

Arlington, VA 22203-1838

Phone: (703) 276-0100

Fax: (703) 525-8277

You may also file your complaint online at: <https://www.bbb.org/us/consumers/>.

The Better Business Bureau, or BBB, monitors accredited businesses to ensure that companies are treating customers fairly and honestly. The BBB does not have the authority to file a suit against a company that has acted unfairly, but it does provide information to the public about fraud and scams. The BBB also works with local, state, and federal law enforcement agencies, to provide them with information that aids in prosecuting fraudulent organizations.

Federal Trade Commission

600 Pennsylvania Avenue, NW

Washington, DC 20580

Phone: 1-877-382-4357

Email: spam@uce.gov

The Federal Trade Commission, or FTC, is the nation's consumer protection agency. The FTC collects complaints about companies, business practices, and identity theft under the FTC Act and other laws that they enforce. Filing a complaint with the FTC enables them to detect patterns of wrong-doing, which may lead to investigations and prosecutions. The FTC does not resolve individual consumer complaints. Action must be taken by the appropriate law enforcement division to prosecute acts of wrong-doing.

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If you are the victim of a scam or fraud, you should contact all of the above organizations, as well as the following:

Internet Scams and Spam

When filing your complaint, include a copy of the full email and email address and/or web page address.

Internet Crime Complaint Center

www.ic3.gov

The Internet Crime Complaint Center (IC3) reviews each complaint and refers it to the appropriate federal, state, local, or international law enforcement or regulatory agency.

Federal Bureau of Investigation

Richmond FBI Office
1970 E. Parham Road
Richmond, VA 23228
www.Richmond.fbi.gov
Phone: (804) 261-1044

Internet Provider

You can report spams and scams to your email provider, i.e., Gmail, Hotmail, Yahoo. Be certain to forward a copy of the fraudulent email and copy all of the identifying information (from, to, received by, etc.) into the email body.

Search Engine Provider

Report a security problem with any search engine providers, directly to the provider. Click the **Help**, **About Us**, or **Contact Us** buttons to obtain contact information for the provider.

Econsumer.gov

This is a portal where you may report complaints regarding online and related transactions with foreign companies.

Advance Fee Frauds (Lottery scams, Money Transfer Frauds, Nigerian Scams, etc.)

When filing your complaint, forward copies of any emails or letters that you received.

U.S. Secret Service 600 East Main Street Richmond, VA 23219	United States Department of Justice Office of the Inspector General U.S. Department of Justice
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<p>(804) 592-3086 Fax: (202) 406-5031 Email: 419.fcd@ussf.treas.gov</p>	<p>Investigations Division 950 Pennsylvania Avenue NW Room 4706 Washington D.C., DC 20530-0009 1-800-869-4499 Fax: (202) 616-9881 Email: oig.hotline@usdoj.gov Online form: www.justice.gov/oig/FOIA/WasteReportingForm.pdf</p>
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Medical Frauds, Illegal Drug Sales

Food and Drug Administration

10903 New Hampshire AVE
 Silver Spring, MD 20993
 1-888-463-6332

www.fda.gov - This website includes information about known drug scams, and warnings for consumers. Forward emails promoting illegal medical products to: webcomplaints@ora.fda.gov

Postal Scams

(actual letters in your mailbox)

Fill out the United States Postal Service fraud complaint form. This can be obtained from the United States Postal Inspection Service website: <https://postalinspectors.uspis.gov/>.

Securities, Stocks, and Bonds

Securities and Exchange Commission

SEC Complaint Center
 100 F Street NE
 Washington DC, 20549-0213
 Phone: 202-551-6551
 1-800-SEC-0330
 Fax: 202-772-9295
www.sec.gov

You may file your complaint using the online portal, by printing the complaint form and mailing it in, or by writing a letter to the SEC. You are not required to provide any information that you do not wish to give, but the most crucial information that will aid in the investigation is:

- Your name, mail and email addresses, and telephone numbers;
- The name, mail and email addresses, telephone numbers, and website address of any individual or company you mention in the tip or complaint;
- If you have a tip or complaint about a security or a securities salesperson, specific details of how, why, and when the conduct occurred; and

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- Any relevant documentation

Investment related fraud, tips, and or email scams, can be directed to enforcement@sec.gov.

Forged, Counterfeit, Lost, or Stolen Checks

If your checks are stolen, you will need to contact the police, and your bank immediately. You will need to provide the bank and the police with the check numbers, and you will need to close your current account and open a new one. Obtain a copy of the police report so you will have proof that the crime has occurred, and that you filed a complaint. Finally, you will need to contact all of the check verification agencies listed below. When doing so, you will most likely need to send a letter that will include your personal information which may have been stolen: name, address, state ID, driver's license and/or Social Security number. You should also include a contact number where you may be reached during the day, the bank routing and account numbers, check numbers, the dollar amounts of the checks being reported, and copies of any collections letters you may have received.

National Check Fraud Services Phone: 1-843-571-2143 Online crime report form: www.ckfraud.org	Global Payments Check Services Phone: 1-866-850-9061
ChexSystems, Inc. Fraud Department 7805 Hudson Road, Suite 100 Woodbury, MN 55125 Phone: 1-800-428-9623 Fax: 602-65-2197	Certegy Check Services, Inc. P.O. Box 30296 Tampa, FL 33630-3296 Phone: 1-800-437-5120 Fax: 727-570-4936
Telecheck Services, Inc. Attention: Forgery Department P.O. Box 4451 Houston, TX 77210-4451 Phone: 1-800-710-9898 Fax: 402-916-8180	Checkrite: 1-800-766-2748 Primarily covers checks issued in the Minnesota, Montana, North Dakota, South Dakota, Wisconsin, and Wyoming.
Crosscheck Phone: 1-800-552-1900	SCAN Phone: 1-800-262-7771

Additional scam reporting resources:

www.fraud.org	www.ftc.org
www.scambusters.org	www.antiphishing.org
www.us-cert.org	

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What to do if an attorney will not accept your case for representation:

If the investigating authorities determine that you do have a case against the business, but they will not represent you in trying to get your money back, then you may try to sue them on your own in General District Court. This can be a complicated and frustrating process, especially if the company is not licensed to do business in Virginia, or if they have provided you with phony information.

In order to sue someone you must first find out who is the registered agent for that company, and at what address that agent may be served. You may do this by contacting the State Corporation Commission of Virginia at 1-866-722-2551. If the business is not registered in Virginia, then you may try contacting the appropriate agency (similar to Virginia's State Corporation Commission) of the state in which the company operates. If you cannot find the registered agent for the company, and an address at which to have that agent served, then you will not be able to effectively sue them to get your money back.

Once you have the address for the registered agent, you may file a Warrant in Debt in General District Court. You will want to ask the clerk for an IFP, or fee waiver form, to have the filing fee waived. If your request to have the fee waived is denied then you will want to include that cost with all the other damages that you are claiming. You will need to determine exactly what law the company broke, how it was broken, and how much financial damage they caused you, and you will need physical evidence to show to the judge to prove your claim. Evidence can be pictures, letters, billing statements, emails, witnesses, etc. Make certain that you have all of your information organized, and that you have copies for everyone in the court room: yourself, the judge, and the opposing party. If you win your case, that does not mean that you automatically receive the money that is owed to you. You may have to use garnishment, attachment, or liens to try to get your money back. This can also be a lengthy and frustrating process, and may require the assistance of an attorney.

How can I prevent being contacted by a scammer?

One of the best ways to prevent a scam, is to limit the ways a scam artist can contact you. This can be done by adding your name to the Do Not Call Registry: 1-888-382-1222, which will prevent any telemarketers with which you do not already do business from having access to your number.

You can also remove your mailing address, email address, and your fax machine from telemarketing lists that send junk mail and potential scams. To remove your home address, send a letter to:

General Solicitations: Mail Preference Service Direct Marketing Association P.O. Box 643 Carmel, NY 15012-0643 www.dmachoice.org	Credit Offers: 1-888-567-8688 www.optoutprescreen.com
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To stop unwanted fax advertisements, you must first respond to faxes and confirmed emails from companies by replying with an "Opt out" request. Review the fax and send your request to the fax number, phone number, or email address listed on the ad. Although this will typically not stop the faxes, it is a required first step before taking any other actions. If the faxes continue, then you can contact the Federal Communications Commission:

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Federal Communications Commission
Consumer & Governmental Affairs Bureau
Consumer Inquiries & Complaints Division
445 12th Street, SW
Washington, DC 20554
Phone: 1-888-225-5322
Fax: 1-866-418-0232
www.fccinfo@fcc.gov

To respond to emails, there is usually an “opt out” link at the bottom of the email. If you click this link you will be sent to a page where you can enter your email address and request that no more emails be sent to you. If there is no “opt out” link, then you can simply reply to the email, and type “opt out” in the subject line. Do not reply to unconfirmed emails that may be spam. Instead, report the solicitations as instructed above.

You can also contact your email provider, to see what can be done to increase the filter levels on your email, to prevent spam from reaching your inbox. Please note that this can sometimes result in non-spam email being sent to your spam folder, so you will want to add trusted email addresses to your address list, so the email provider can recognize those individuals or organizations as not being spam.

Please note, the credit card companies, banks, catalog companies, etc., with whom you are already a customer, will still have full access to your information and can legally contact you in whatever form you have agreed to. This would simply prevent unknown, and possibly illegal, individuals and/or organizations from gaining access to your contact information.

THIS INFORMATION IS NOT LEGAL ADVICE. Legal advice is dependent upon the specific circumstances of each situation. Therefore, the information contained in this pamphlet cannot replace the advice of competent legal counsel.

Free Legal information by Web and Phone: www.vlas.org and
1-866-LegalAid (534-5243)