

SECOND REGULAR SESSION

HOUSE BILL NO. 1885

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE YATES.

Read 1st time January 28, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

4763L.01I

AN ACT

To repeal section 427.225, RSMo, and to enact in lieu thereof one new section relating to the deceptive use of a financial institution's name.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 427.225, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 427.225, to read as follows:

427.225. 1. Deceptive use of a financial institution's name in notification or solicitation occurs when a business, or a person acting on its behalf, engages in the following activity:

(1) Through advertisement, solicitation, or other notification, either verbally or through any other means, informs a consumer of the availability of any type of goods or services that are not free;

(2) The name of an unrelated and unaffiliated financial institution is mentioned in any manner;

(3) The goods or services mentioned are not actually provided by the unrelated and unaffiliated financial institution whose name is mentioned;

(4) The business on whose behalf the notification or solicitation is made does not have a consensual right to mention the name of the unrelated and unaffiliated financial institution; and

(5) Neither the actual name nor trade name of the business on whose behalf the notification or solicitation is being made is stated, nor the actual name or trade name of any actual provider of the goods or services is stated, so as to clearly identify for the consumer a name that is distinguishable and separate from the name of the unrelated and unaffiliated

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 financial institution whose name is mentioned in any manner in the notification or solicitation,
17 and thereby a misleading implication or ambiguity is created, such that a consumer who is the
18 recipient of the advertisement, solicitation or notification may reasonably but erroneously
19 believe:

20 (a) That the goods or services whose availability is mentioned are made available by or
21 through the unrelated and unaffiliated financial institution whose name is mentioned; or

22 (b) That the unrelated and unaffiliated financial institution whose name is mentioned is
23 the one communicating with the consumer.

24 2. Deceptive use of another's name in notification or solicitation occurs when a business,
25 or a person acting on its behalf, engages in the following activity:

26 (1) Falsely states or implies that any person, product or service is recommended or
27 endorsed by a named third-person financial institution; or

28 (2) Falsely states that information about the consumer including but not limited to the
29 name, address, or phone number of the consumer has been provided by a third-person financial
30 institution, whether that person is named or unnamed.

31 3. [Only] The financial institution whose name is deceptively used, as provided in this
32 section, may bring a private civil action and recover a minimum amount of ten thousand dollars,
33 court costs, and attorney fees plus any damages such financial institution may prove at trial.

34 4. For the purposes of this section, a financial institution includes a commercial bank,
35 savings and loan association, savings bank, credit union, mortgage banker, or consumer finance
36 company, or an institution chartered pursuant to the provisions of an act of the United States
37 known as the Farm Credit Act of 1971.

38 5. **Nothing contained in this section shall bar the attorney general from enforcing**
39 **the provisions of sections 407.010 to 407.145, RSMo.**

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