

1 AN ACT concerning consumer protection.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Restricted Call Registry Act is amended
5 by changing Section 5 as follows:

6 (815 ILCS 402/5)

7 Sec. 5. Definitions. As-used In this Act:

8 (a) "Residential subscriber" means a person or spouse
9 who has subscribed to either residential telephone service
10 from a local exchange company or public mobile services, as
11 defined by Section 13-214 of the Public Utilities Act, a
12 guardian of the person or the person's spouse, or an
13 individual who has power of attorney from or an authorized
14 agent of the person or the person's spouse.

15 (b) "Established business relationship" means the
16 existence of an oral or written transaction, agreement,
17 contract, or other legal state of affairs involving a person
18 or entity and an existing customer under which both parties
19 have a course of conduct or established pattern of activity
20 for commercial or mercantile purposes and for the benefit or
21 profit of both parties. A pattern of activity does not
22 necessarily mean multiple previous contacts. The established
23 business relationship must exist between the existing
24 customer and the person or entity directly, and does not
25 extend to any related business entity or other business
26 organization of the person or entity or related to the person
27 or entity or the person or entity's agent including but not
28 limited to a parent corporation, subsidiary partnership,
29 company or other corporation or affiliate.

30 (c) "Existing customer" means an individual who has
31 either:

1 (1) entered into a transaction, agreement,
 2 contract, or other legal state of affairs between a
 3 person or entity and a residential subscriber under which
 4 the payment or exchange of consideration for any goods or
 5 services has taken place within the preceding 18 months
 6 or has been arranged to take place at a future time; or

7 (2) opened or maintained a debit account, credit
 8 card account, or other credit or discount program offered
 9 by or in conjunction with the person or entity and has
 10 not requested the person or entity to close such account
 11 or terminate such program.

12 (d) "Registry" means the Restricted Call Registry
 13 established under this Act.

14 (e) "Telephone solicitation" means any voice
 15 communication over a telephone line from a live operator,
 16 through the use of an autodialer or autodialer system, as
 17 defined in Section 5 of the Automatic Telephone Dialers Act,
 18 or by other means for the purpose of encouraging the purchase
 19 or rental of, or investment in, property, goods, or services,
 20 or for the purposes of soliciting charitable contributions
 21 but does not include communications:

22 (1) to any residential subscriber with that
 23 subscriber's prior express invitation or permission when
 24 a voluntary 2-way communication between a person or
 25 entity and a residential subscriber has occurred with or
 26 without an exchange of consideration. A telephone
 27 solicitation is presumed not to be made at the express
 28 request of a subscriber if one of the following occurs,
 29 as applicable:

30 (A) The telephone solicitation is made 30
 31 business days after the last date on which the
 32 subscriber contacted a business with the purpose of
 33 inquiring about the potential purchase of goods or
 34 services.

1 (B) The telephone solicitation is made 30
2 business days after the last date on which the
3 subscriber consented to be contacted.

4 (C) The telephone solicitation is made 30
5 business days after a product or service becomes
6 available where the subscriber has made a request to
7 the business for that product or service that is not
8 then available, and requests a call when the product
9 or service becomes available;

10 (2) by or on behalf of any person or entity with
11 whom a residential subscriber has an established business
12 relationship which has not been terminated in writing by
13 either party and which is related to the nature of the
14 established business relationship;

15 (3) by or on behalf of any person or entity with
16 whom a residential subscriber is an existing customer,
17 unless the customer has stated to the person or entity or
18 the person or entity's agent that he or she no longer
19 wishes to receive the telemarketing sales calls of the
20 person or entity, or unless the nature of the call is
21 unrelated to the established business relationship with
22 the existing customer;

23 (4) by or on behalf of an organization that is
24 exempt from federal income taxation under Section 501(c)
25 of the Internal Revenue Code, but only if the person
26 making the telephone solicitation immediately discloses
27 all of the following information upon making contact with
28 the consumer:

29 (A) the caller's true first and last name; and

30 (B) the name, address, and telephone number of
31 the organization;

32 (5) by or on behalf of an individual licensed under
33 the Real Estate License Act of 2000 or as an insurance
34 producer under the Illinois Insurance Code who either:

1 (A) is setting or attempting to set a face to
2 face appointment for actions relating to that
3 individual's real estate or insurance business; or

4 (B) is encouraging or attempting to encourage
5 the purchase or rental of, or investment in,
6 property, goods, or services, which cannot be
7 completed, and for which payment or authorization of
8 payment is not required, until after a written or
9 electronic agreement is signed by the residential
10 subscriber; or

11 (6) until July 1, 2005, by or on behalf of any
12 entity over which the Federal Communications Commission
13 or the Illinois Commerce Commission has regulatory
14 authority to the extent that, subject to that authority,
15 the entity is required to maintain a license, permit, or
16 certificate to sell or provide telecommunications
17 service, as defined in Section 13-203 of the Public
18 Utilities Act, while the entity is engaged in telephone
19 solicitation for inter-exchange telecommunications
20 service, as defined in Section 13-205 of the Public
21 Utilities Act, or local exchange telecommunications
22 service, as defined in Section 13-204 of the Public
23 Utilities Act or to the extent, subject to the regulatory
24 authority of the Federal Communications Commission, the
25 entity is defined by Title 47 Section 522(5) of the
26 United States Code, or providers of information services
27 as defined by Title 47 Section 153(20) of the United
28 States Code.

29 (Source: P.A. 92-795, eff. 8-9-02.)