



Rep. Elaine Nekritz

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09300HB4432ham001

LRB093 16202 AMC 49396 a

1 AMENDMENT TO HOUSE BILL 4432

2 AMENDMENT NO. _____. Amend House Bill 4432 by replacing
3 everything after the enacting clause with the following:

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

6 (815 ILCS 402/5)

7 Sec. 5. Definitions ~~Definitions~~. As used in this Act:

8 (a) "Residential subscriber" means a person or spouse who
9 has subscribed to either residential telephone service from a
10 local exchange company or public mobile services, as defined by
11 Section 13-214 of the Public Utilities Act, a guardian of the
12 person or the person's spouse, or an individual who has power
13 of attorney from or an authorized agent of the person or the
14 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 or
18 entity and an existing customer under which both parties have a
19 course of conduct or established pattern of activity for
20 commercial or mercantile purposes and for the benefit or profit
21 of both parties. A pattern of activity does not necessarily
22 mean multiple previous contacts. The established business
23 relationship must exist between the existing customer and the
24 person or entity directly, and does not extend to any related

1 business entity or other business organization of the person or
2 entity or related to the person or entity or the person or
3 entity's agent including but not limited to a parent
4 corporation, subsidiary partnership, company or other
5 corporation or affiliate.

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

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

13 (2) opened or maintained a debit account, credit card
14 account, or other credit or discount program offered by or
15 in conjunction with the person or entity and has not
16 requested the person or entity to close such account or
17 terminate such program.

18 (d) "Registry" means the Restricted Call Registry
19 established under this Act.

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

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

1 (A) The telephone solicitation is made 30 business
2 days after the last date on which the subscriber
3 contacted a business with the purpose of inquiring
4 about the potential purchase of goods or services.

5 (B) The telephone solicitation is made 30 business
6 days after the last date on which the subscriber
7 consented to be contacted.

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

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

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

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

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

34 (B) the name, address, and telephone number of the

1 organization;

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

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

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

14 (6) until July 1, 2005, by or on behalf of any entity
15 over which the Federal Communications Commission or the
16 Illinois Commerce Commission has regulatory authority to
17 the extent that, subject to that authority, the entity is
18 required to maintain a license, permit, or certificate to
19 sell or provide telecommunications service, as defined in
20 Section 13-203 of the Public Utilities Act, while the
21 entity is engaged in telephone solicitation for
22 inter-exchange telecommunications service, as defined in
23 Section 13-205 of the Public Utilities Act, or local
24 exchange telecommunications service, as defined in Section
25 13-204 of the Public Utilities Act or to the extent,
26 subject to the regulatory authority of the Federal
27 Communications Commission, the entity is defined by Title
28 47 Section 522(5) of the United States Code, or providers
29 of information services as defined by Title 47 Section
30 153(20) of the United States Code.

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