

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.)