

1 AN ACT concerning telephone solicitation.

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

4 Section 1. Short title. This Act may be cited as the
5 Restricted Call Registry Act.

6 Section 5. Definitions. As used in this Act:

7 (a) "Residential subscriber" means a person or spouse
8 who has subscribed to residential telephone service from a
9 local exchange company, a guardian of the person or the
10 person's spouse, or an individual who has power of attorney
11 from or an authorized agent of the person or the person's
12 spouse.

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

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

30 (1) entered into a transaction, agreement,
31 contract, or other legal state of affairs between a

1 person or entity and a residential subscriber under which
2 the payment or exchange of consideration for any goods or
3 services has taken place within the preceding 18 months
4 or has been arranged to take place at a future time; or

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

10 (d) "Registry" means the Restricted Call Registry
11 established under this Act.

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

19 (1) to any residential subscriber with that
20 subscriber's prior express invitation or permission when
21 a voluntary 2-way communication between a person or
22 entity and a residential subscriber has occurred with or
23 without an exchange of consideration;

24 (2) by or on behalf of any person or entity with
25 whom a residential subscriber has an established business
26 relationship which has not been terminated in writing by
27 either party and which is related to the nature of the
28 established business relationship;

29 (3) by or on behalf of any person or entity with
30 whom a residential subscriber is an existing customer,
31 unless the customer has stated to the person or entity or
32 the person or entity's agent that he or she no longer
33 wishes to receive the telemarketing sales calls of the
34 person or entity, or unless the nature of the call is

1 unrelated to the established business relationship with
2 the existing customer;

3 (4) by or on behalf of an entity organized under
4 Section 501(c)(3), 501(c)(4), or 501(c)(6) of the
5 Internal Revenue Code, while the entity is engaged in
6 fundraising to support the charitable or not-for-profit
7 purpose for which the entity was established;

8 (5) by or on behalf of a person licensed by the
9 State of Illinois to carry out a trade, occupation, or
10 profession who either:

11 (A) is setting or attempting to set a face to
12 face appointment for actions relating to that
13 licensed trade, occupation, or profession within
14 this State; or

15 (B) is encouraging or attempting to encourage
16 the purchase or rental of, or investment in,
17 property, goods, or services, which cannot be
18 completed, and for which payment or authorization of
19 payment is not required, until after a written or
20 electronic agreement is signed by the residential
21 subscriber; or

22 (6) until July 1, 2005, by or on behalf of any
23 entity over which the Federal Communications Commission
24 or the Illinois Commerce Commission has regulatory
25 authority to the extent that, subject to that authority,
26 the entity is required to maintain a license, permit, or
27 certificate to sell or provide telecommunications
28 service, as defined in Section 13-203 of the Public
29 Utilities Act, while the entity is engaged in telephone
30 solicitation for inter-exchange telecommunications
31 service, as defined in Section 13-205 of the Public
32 Utilities Act, or local exchange telecommunications
33 service, as defined in Section 13-204 of the Public
34 Utilities Act.

1 Section 10. Prohibited calls. Beginning July 1, 2002, no
2 person or entity may make or cause to be made any telephone
3 solicitation calls to any residential subscriber more than 45
4 days after the residential subscriber's telephone number or
5 numbers first appear on the Registry.

6 Section 15. Complaints. The Illinois Commerce Commission
7 shall receive telephone solicitation complaints from
8 residential subscribers to object to such calls. Complaints
9 shall be taken by any means deemed appropriate by the
10 Illinois Commerce Commission. Complaints against persons or
11 entities that are licensed, certificated, or permitted by a
12 State or federal agency shall be forwarded for investigation
13 by the Illinois Commerce Commission to the appropriate agency
14 if the respective agency has the power to investigate such
15 matters. All other complaints shall be investigated by the
16 Illinois Commerce Commission. The standards for referrals and
17 investigations shall be set forth in rules adopted by the
18 Illinois Commerce Commission.

19 Section 20. Registry; establishment and maintenance.

20 (a) The Illinois Commerce Commission shall establish and
21 provide for the operation of a Restricted Call Registry,
22 which shall contain a list of the telephone numbers of
23 residential subscribers who do not wish to receive telephone
24 solicitation calls. The Illinois Commerce Commission may
25 contract with a private vendor to establish and maintain the
26 Registry if the contract requires the vendor to provide the
27 Registry in a printed hard copy format, in an electronic
28 format, and in any other format prescribed by the Illinois
29 Commerce Commission.

30 (b) No later than January 1, 2002, the Illinois
31 Commerce Commission shall adopt rules consistent with this
32 Act that the Illinois Commerce Commission deems necessary and

1 appropriate to fully implement this Act. The rules shall
2 include, at a minimum, methods by which any person or entity
3 desiring to make telephone solicitation calls may obtain
4 access to the Registry to avoid calling the telephone numbers
5 of residential subscribers included in the Registry.

6 (c) The fee for obtaining the Registry shall be set
7 forth in rules adopted by the Illinois Commerce Commission.
8 The fee may not exceed \$500 annually. All copies requested in
9 a printed hard copy format shall be assessed a per page fee
10 to be determined by rules adopted by the Illinois Commerce
11 Commission.

12 (d) The Illinois Commerce Commission shall update the
13 Registry and make information in the Registry available on a
14 quarterly basis in an electronic format and, if deemed
15 appropriate by the Illinois Commerce Commission, in one or
16 more other formats.

17 (e) If the Federal Communications Commission or Federal
18 Trade Commission establishes a single national database of
19 telephone numbers of subscribers who object to receiving
20 telephone solicitations under Title 47, Section 227(c)(3) of
21 the United States Code, this State shall discontinue the
22 Registry.

23 (f) Information in the Registry is confidential and
24 shall be afforded reasonable privacy protection except as
25 necessary for compliance with Sections 10 and 25 and this
26 Section or in a proceeding or action under Section 35 or 40.
27 The information is not a public record under the Freedom of
28 Information Act.

29 (g) The Illinois Commerce Commission shall periodically
30 obtain subscription listings of residential subscribers in
31 this State who have arranged to be included in any national
32 do-not-call list and add those names to the Registry.

33 Section 25. Enrollment.

1 (a) The Illinois Commerce Commission shall provide
2 notice to residential subscribers of the establishment of the
3 Registry.

4 (b) The Illinois Commerce Commission shall establish any
5 method deemed appropriate for a residential subscriber to
6 notify the Illinois Commerce Commission that the residential
7 subscriber wishes to be included in the Registry.

8 (c) There shall be no cost to a residential subscriber
9 for inclusion in the Registry.

10 (d) A residential subscriber in the Registry shall be
11 deleted from the Registry upon the residential subscriber's
12 written request.

13 (e) Enrollment in the Registry is effective from the
14 start of the quarter following the date of enrollment for a
15 term of 5 years or until the residential subscriber
16 disconnects or changes his or her telephone number, whichever
17 occurs first. The residential subscriber is responsible for
18 notifying the Illinois Commerce Commission of any changes in
19 his or her telephone number. The Illinois Commerce Commission
20 shall use its best efforts to notify enrolled residential
21 subscribers before the end of the 5-year enrollment term of
22 the option to re-enroll. Residential subscribers who do not
23 re-enroll before the end of the 5-year term shall be removed
24 from the Registry.

25 Section 30. Public notification. The Illinois Commerce
26 Commission shall work with local exchange telecommunications
27 companies to disseminate to their customers information about
28 the availability of and instructions for requesting
29 educational literature from the Illinois Commerce Commission.
30 The Illinois Commerce Commission may enter into agreements
31 with those companies for the dissemination of the educational
32 literature. Telecommunications companies shall disseminate
33 the educational literature at least once per year in both a

1 message contained in customers' bills and a notice in the
2 information section of all telephone directories distributed
3 to customers. The Illinois Commerce Commission shall include,
4 on its Internet web site, information to customers regarding
5 their right to be included in the Registry and the various
6 methods, including notice to the Illinois Commerce
7 Commission, of being included in the Registry. The Illinois
8 Commerce Commission shall have this literature developed for
9 dissemination to the public no later than March 1, 2002.

10 Section 35. Violation; relief.

11 (a) The Illinois Commerce Commission may initiate
12 administrative proceedings in accordance with rules adopted
13 under this Act relating to a knowing and willful violation of
14 Section 10.

15 (b) If it is determined after a hearing that a person
16 has knowingly and willfully violated one or more provisions
17 of this Section, the Illinois Commerce Commission may assess
18 a fine not to exceed \$2,500 for each violation.

19 (c) Any proceeding conducted under this Section is
20 subject to the Illinois Administrative Procedure Act.

21 (d) Nothing in this Section may be construed to restrict
22 any right that any person may have under any other law or at
23 common law.

24 (e) No action or proceeding may be brought under this
25 Section:

26 (1) more than one year after the person bringing
27 the action knew or should have known of the occurrence of
28 the alleged violation; or

29 (2) more than one year after the termination of any
30 proceeding or action arising out of the same violation or
31 violations by the State of Illinois, whichever is later.

32 (f) The remedies, duties, prohibition, and penalties in
33 this Act are not exclusive and are in addition to all other

1 causes of action, remedies, and penalties provided by law.

2 (g) There is created in the State treasury a special
3 fund to be known as the Restricted Call Registry Fund. All
4 fees and fines collected in the administration and
5 enforcement of this Act shall be deposited into the Fund.
6 Moneys in the Fund shall, subject to appropriation, be used
7 by the Illinois Commerce Commission for implementation,
8 administration, and enforcement of this Act.

9 Section 40. Exemption. A person or entity may not be
10 held liable for violating this Act if:

11 (1) the person or entity has obtained copies of the
12 Registry and each updated Registry from the Illinois
13 Commerce Commission and has established and implemented
14 written policies and procedures related to the
15 requirements of this Act;

16 (2) the person or entity has trained its personnel
17 in the requirements of this Act;

18 (3) the person or entity maintains records
19 demonstrating compliance with subdivisions (1) and (2) of
20 this Section and the requirements of this Act; and

21 (4) any subsequent telephone solicitation is the
22 result of error.

23 Section 90. The State Finance Act is amended by adding
24 Section 5.545 as follows:

25 (30 ILCS 105/5.545 new)

26 Sec. 5.545. The Restricted Call Registry Fund.

27 Section 99. Effective date. This Act takes effect upon
28 becoming law.