

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 Do-Not-Call List Act.

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

7 "Caller identification service" means a type of telephone
8 service that permits telephone subscribers to see the
9 telephone number of incoming telephone calls;

10 "Residential subscriber" means a person who has
11 subscribed to residential telephone service from a local
12 exchange company or the other persons living or residing with
13 the person;

14 "Telephone solicitation" means any voice communication
15 over a telephone line from a live operator, through the use
16 of ADAD equipment or by other means for the purpose of
17 encouraging the purchase or rental of, or investment in,
18 property, goods, or services, but does not include
19 communications:

20 (1) by or on behalf of any person or entity with
21 whom a residential subscriber has a current business or
22 personal relationship;

23 (2) by or on behalf of an entity organized under
24 Section 501(c)(3) of the United States Internal Revenue
25 Code, while the entity is engaged in fund raising to
26 support the charitable purpose for which the entity was
27 established provided that a bona fide member of the
28 exempt organization makes the voice communication; or

29 (3) by or on behalf of any entity over which a
30 federal agency has regulatory authority to the extent
31 that:

1 (A) subject to the authority, the entity is
2 required to maintain a license, permit, or
3 certificate to sell or provide the merchandise being
4 offered through telemarketing; and

5 (B) the entity is required by law or rule to
6 develop and maintain a no-call list.

7 Section 10. Attorney General. The Office of the Attorney
8 General shall receive telemarketing complaints by means of a
9 toll-free telephone number, by a notice in writing, or by
10 electronic means. Complaints against entities that are
11 licensed, certificated, or permitted and whose telemarketing
12 practices are regulated by the same State or federal agency
13 and which agency has rules regulating telemarketing practices
14 shall be forwarded for investigation by the Office of the
15 Attorney General to the agency. All other complaints shall be
16 handled by the Office of the Attorney General.

17 Section 15. Telephone solicitation. Beginning July 1,
18 2002, a person or entity may not make or cause to be made any
19 telephone solicitation to the telephone line of any
20 residential subscriber in this State who has given notice to
21 the Secretary of State, in accordance with rules adopted
22 under Section 20, of the subscriber's objection to receiving
23 telephone solicitations.

24 Section 20. Database.

25 (a) The Secretary of State must establish and provide
26 for the operation of a database to compile a list of
27 telephone numbers of residential subscribers who object to
28 receiving telephone solicitations. The Secretary of State
29 shall have the database in operation no later than July 1,
30 2002.

31 (b) No later than January 1, 2002, the Secretary of

1 State shall adopt rules governing the establishment of a
2 State no-call database as he or she deems necessary and
3 appropriate to fully implement this Act. The rules must, at a
4 minimum, include all of the following:

5 (1) Specify the methods by which a residential
6 subscriber may give notice to the Secretary of State or
7 its contractor of his or her objection to receiving the
8 solicitations or revocation of the notice. There shall
9 be no cost to the subscriber for joining the database in
10 this manner.

11 (2) Specify the length of time for which a notice
12 of objection is to be effective and the effect of a
13 change of telephone number on the notice.

14 (3) Specify the methods by which the objections and
15 revocations may be collected and added to the database.

16 (4) Specify the methods by which any person or
17 entity desiring to make telephone solicitations may
18 obtain access to the database as required to avoid
19 calling the telephone numbers of residential subscribers
20 included in the database, including the cost assessed to
21 that person or entity for access to the database.

22 (5) Specify methods by which a local exchange
23 telecommunications carrier may include names and
24 telephone numbers of its customers in the State no-call
25 database.

26 (6) Specify the other matters relating to the
27 database that the Secretary of State deems desirable.

28 (c) If the Federal Communications Commission establishes
29 a single national database of telephone numbers of
30 subscribers who object to receiving telephone solicitations
31 under Title 47 U.S.C., Section 227(c)(3), the Secretary of
32 State shall include that part of the single national database
33 that relates to Illinois in the database established under
34 this Section.

1 (d) Information contained in the database established
2 under this Section shall be used only for the purpose of
3 compliance with Section 15 and this Section or in a
4 proceeding or action under Section 25. The information is not
5 a public record under the Freedom of Information Act.

6 (e) In April, July, October, and January of each year,
7 the Secretary of State shall obtain subscription listings of
8 consumers in this State who have arranged to be included on
9 any national do-not-call list and add those names to the
10 State do-not-call list.

11 Section 25. Relief.

12 (a) The Attorney General may initiate proceedings
13 relating to a knowing violation or threatened knowing
14 violation of Section 15. The proceedings may include, without
15 limitation, an injunction, a civil penalty up to a maximum of
16 \$5,000 for each knowing violation, and additional relief in
17 any circuit court. The Attorney General may issue
18 investigative demands, issue subpoenas, administer oaths, and
19 conduct hearings in the course of investigating a violation
20 of Section 15.

21 (b) Any person who has received more than one telephone
22 solicitation within any 12-month period by or on behalf of
23 the same person or entity in violation of Section 15 may
24 either:

- 25 (1) bring an action to enjoin the violation;
- 26 (2) bring an action to recover for actual monetary
27 loss from the knowing violation or to receive up to
28 \$5,000 in damages for each knowing violation, whichever
29 is greater; or
- 30 (3) bring both the actions under clauses (1) and
31 (2) of this subsection (b).

32 (c) It is a defense in any action or proceeding brought
33 under this Section that the defendant has established and

1 implemented, with due care, reasonable practices and
2 procedures to effectively prevent telephone solicitations in
3 violation of Section 15.

4 (d) An action or proceeding may not be brought under
5 this Section:

6 (1) more than 2 years after the person bringing the
7 action knew or should have known of the occurrence of the
8 alleged violation; or

9 (2) more than 2 years after the termination of any
10 proceeding or action arising out of the same violation or
11 violations by the State of Illinois, whichever is later.

12 (e) A circuit court of this State may exercise personal
13 jurisdiction over any nonresident or his or her executor or
14 administrator as to an action or proceeding authorized by
15 this Section in the manner otherwise provided by law.

16 (f) The remedies, duties, prohibitions, and penalties of
17 this Act are not exclusive and are in addition to all other
18 causes of action, remedies, and penalties provided by law.

19 (g) A provider of telephone caller identification
20 service may not be held liable for violations of Section 15
21 committed by other persons or entities.

22 (h) This Section is operative on and after July 1, 2001.

23 Section 30. Local exchange telecommunications carrier
24 list.

25 (a) A local exchange telecommunications carrier must
26 establish and maintain a database of its residential
27 subscribers who object to receiving telephone solicitations.
28 A local exchange telecommunications carrier must provide
29 notice of the existence of the database on the first page of
30 its monthly billing statements to its customers.

31 (b) Upon receiving notice from a customer of the
32 customer's intention to be included in the database, a local
33 exchange telecommunications carrier must place the customer's

1 name and telephone number in the database. The customer's
2 name and telephone number must be maintained in the database
3 for a period of at least 3 years. A local exchange
4 telecommunications carrier may impose a one-time fee not
5 exceeding \$3 for including a customer's name and telephone
6 number in the database for a 3-year period.

7 (c) In January, April, July, and October of each year, a
8 local exchange telecommunications carrier must report to the
9 Secretary of State for inclusion in the State no-call
10 database a list of all customers' names and telephone numbers
11 that have been added to the database created under this
12 Section since the previous report.

13 Section 99. Effective date. This Act takes effect upon
14 becoming law.