

1 AN ACT concerning electronic communications.

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 Facsimile and Electronic Mail Commercial Solicitation Act.

6 Section 5. Faxing or e-mailing of unsolicited
7 advertising materials.

8 (a) No person or entity conducting business in this
9 State shall facsimile (fax) or cause to be faxed, or
10 electronically mail (e-mail) or cause to be e-mailed,
11 documents consisting of unsolicited advertising material for
12 the lease, sale, rental, gift offer, or other disposition of
13 any realty, goods, services, or extension of credit unless:

14 (1) In the case of a fax, that person or entity
15 establishes a toll-free telephone number that a recipient
16 of the unsolicited faxed documents may call to notify the
17 sender not to fax the recipient any further unsolicited
18 documents.

19 (2) In the case of e-mail, that person or entity
20 establishes a toll-free telephone number or valid sender
21 operated return e-mail address that the recipient of the
22 unsolicited documents may call or e-mail to notify the
23 sender not to e-mail any further unsolicited documents.

24 (b) All unsolicited faxed or e-mailed documents subject
25 to this Section shall include a statement informing the
26 recipient of the toll-free telephone number that the
27 recipient may call, or a valid return address to which the
28 recipient may write or e-mail, as the case may be, notifying
29 the sender not to fax or e-mail the recipient any further
30 unsolicited documents to the fax number, or numbers, or
31 e-mail address, or addresses, specified by the recipient.

1 In the case of faxed material, the statement shall be in
2 at least 9-point type. In the case of e-mail, the statement
3 shall be the first text in the body of the message and shall
4 be of the same size as the majority of the text of the
5 message.

6 (c) Upon notification by a recipient of his or her
7 request not to receive any further unsolicited faxed or
8 e-mailed documents, no person or entity conducting business
9 in this State shall fax or cause to be faxed or e-mail or
10 cause to be e-mailed any unsolicited documents to that
11 recipient.

12 (d) In the case of e-mail, this Section shall apply when
13 the unsolicited e-mailed documents are delivered to an
14 Illinois resident via an electronic mail service provider's
15 service or equipment located in this State. For these
16 purposes, "electronic mail service provider" means any
17 business or organization qualified to do business in this
18 State that provides individuals, corporations, or other
19 entities the ability to send or receive electronic mail
20 through equipment located in this State and that is an
21 intermediary in sending or receiving electronic mail.

22 (e) As used in this Section, "unsolicited e-mailed
23 documents" means any e-mailed document or documents
24 consisting of advertising material for the lease, sale,
25 rental, gift offer, or other disposition of any realty,
26 goods, services, or extension of credit that meet both of the
27 following requirements:

28 (1) The documents are addressed to a recipient with
29 whom the initiator does not have an existing business or
30 personal relationship.

31 (2) The documents are not sent at the request of,
32 or with the express consent of, the recipient.

33 (f) As used in this Section, "fax" or "cause to be
34 faxed" or "e-mail" or "cause to be e-mailed" does not include

1 or refer to the transmission of any documents by a
2 telecommunications utility or Internet service provider to
3 the extent that the telecommunications utility or Internet
4 service provider merely carries that transmission over its
5 network.

6 (g) In the case of e-mail that consists of unsolicited
7 advertising material for the lease, sale, rental, gift offer,
8 or other disposition of any realty, goods, services, or
9 extension of credit, the subject line of each and every
10 message shall include "ADV:" as the first 4 characters. If
11 these messages contain information that consists of
12 unsolicited advertising material for the lease, sale, rental,
13 gift offer, or other disposition of any realty, goods,
14 services, or extension of credit, that may only be viewed,
15 purchased, rented, leased, or held in possession by an
16 individual 18 years of age and older, the subject line of
17 each and every message shall include "ADV:ADLT" as the first
18 8 characters.

19 (h) An employer who is the registered owner of more than
20 one e-mail address may notify the person or entity conducting
21 business in this State e-mailing or causing to be e-mailed,
22 documents consisting of unsolicited advertising material for
23 the lease, sale, rental, gift offer, or other disposition of
24 any realty, goods, services, or extension of credit of the
25 desire to cease e-mailing on behalf of all of the employees
26 who may use employer-provided and employer-controlled e-mail
27 addresses.

28 (i) Any person who willfully violates this Section
29 commits a Class C misdemeanor.

30 (j) In addition to any other penalties set forth in this
31 Section, violation of this Section constitutes an unlawful
32 practice under the Consumer Fraud and Deceptive Business
33 Practices Act.

34 (k) This Section shall become inoperative on and after

1 the date that federal law is enacted that prohibits or
2 otherwise regulates the transmission of unsolicited
3 advertising by electronic mail (e-mail).

4 Section 905. The Consumer Fraud and Deceptive Business
5 Practices Act is amended by changing Section 2Z as follows:

6 (815 ILCS 505/2Z) (from Ch. 121 1/2, par. 262Z)

7 Sec. 2Z. Violations of other Acts. Any person who
8 knowingly violates the Automotive Repair Act, the Home Repair
9 and Remodeling Act, the Dance Studio Act, the Physical
10 Fitness Services Act, the Hearing Instrument Consumer
11 Protection Act, the Illinois Union Label Act, the Job
12 Referral and Job Listing Services Consumer Protection Act,
13 the Travel Promotion Consumer Protection Act, the Credit
14 Services Organizations Act, the Automatic Telephone Dialers
15 Act, the Pay-Per-Call Services Consumer Protection Act, the
16 Telephone Solicitations Act, the Illinois Funeral or Burial
17 Funds Act, the Cemetery Care Act, the Safe and Hygienic Bed
18 Act, the Pre-Need Cemetery Sales Act, subsection (a) or (b)
19 of Section 3-10 of the Cigarette Tax Act, subsection (a) or
20 (b) of Section 3-10 of the Cigarette Use Tax Act, the
21 Electronic Mail Act, ~~or~~ paragraph (6) of subsection (k) of
22 Section 6-305 of the Illinois Vehicle Code, or the Facsimile
23 and Electronic Mail Commercial Solicitation Act commits an
24 unlawful practice within the meaning of this Act.

25 (Source: P.A. 91-164, eff. 7-16-99; 91-230, eff. 1-1-00;
26 91-233, eff. 1-1-00; 91-810, eff. 6-13-00; 92-426, eff.
27 1-1-02.)