

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

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

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

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

20 (d) "Registry" means the Restricted Call Registry
21 established under this Act.

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

30 (1) to any residential subscriber with that
31 subscriber's prior express invitation or permission when
32 a voluntary 2-way communication between a person or
33 entity and a residential subscriber has occurred with or
34 without an exchange of consideration. A telephone

1 solicitation is presumed not to be made at the express
2 request of a subscriber if one of the following occurs,
3 as applicable:

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

9 (B) The telephone solicitation is made 30
10 business days after the last date on which the
11 subscriber consented to be contacted.

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

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

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

31 (4) by or on behalf of an organization that is
32 exempt from federal income taxation under Section 501 of
33 the Internal Revenue Code, but only if the person making
34 the telephone solicitation immediately discloses all of

1 the following information upon making contact with the
2 consumer:

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

4 (B) the name, address, and telephone number of
5 the charitable organization;

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

9 (A) is setting or attempting to set a face to
10 face appointment for actions relating to that small
11 business; or

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

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

32 Section 10. Prohibited calls. Beginning July 1, 2003,
33 no person or entity may make or cause to be made any

1 telephone solicitation calls to any residential subscriber
2 more than 45 days after the residential subscriber's
3 telephone number or numbers first appear on the Registry.

4 Section 15. Complaints. The Illinois Commerce Commission
5 shall receive telephone solicitation complaints from
6 residential subscribers to object to such calls. Complaints
7 shall be taken by any means deemed appropriate by the
8 Illinois Commerce Commission.

9 Section 20. Registry; establishment and maintenance.

10 (a) The Illinois Commerce Commission shall establish and
11 provide for the operation of a Restricted Call Registry,
12 which shall contain a list of the telephone numbers of
13 residential subscribers who do not wish to receive telephone
14 solicitation calls. The Illinois Commerce Commission may
15 contract with a private vendor to establish and maintain the
16 Registry if the contract requires the vendor to provide the
17 Registry in a printed hard copy format, in an electronic
18 format, and in any other format prescribed by the Illinois
19 Commerce Commission. Any person or entity conducting
20 telephone solicitation calls as defined by Section 5(e) of
21 this Act within the State of Illinois shall purchase the
22 Restricted Call Registry and updates exclusively from the
23 Illinois Commerce Commission. Failure to do so prior to
24 conducting telephone solicitation calls is a violation
25 subject to the penalties provided for in Section 35 of this
26 Act.

27 (b) No later than January 1, 2003, the Illinois Commerce
28 Commission shall adopt rules consistent with this Act that
29 the Illinois Commerce Commission deems necessary and
30 appropriate to fully implement this Act. The rules shall
31 include, at a minimum, methods by which any person or entity
32 desiring to make telephone solicitation calls may obtain

1 access to the Registry to avoid calling the telephone numbers
2 of residential subscribers included in the Registry.

3 (c) The fee for obtaining the Registry and updates shall
4 be set forth in rules adopted by the Illinois Commerce
5 Commission. The fee may not exceed \$1,000 annually and may
6 not exceed the costs incurred by the Commission in the
7 preparation, maintenance, production, and distribution of the
8 Registry. All copies requested in a printed hard copy format
9 shall be assessed a per page fee to be determined by rules
10 adopted by the Illinois Commerce Commission.

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

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

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

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

32 (h) A person or entity that obtains the Registry shall
33 not use the Registry for any purpose other than to comply
34 with this Act. These unlawful purposes include, but are not

1 limited to, causing a subscriber to participate in and be
2 included in the Registry without the subscriber's knowledge
3 or consent, selling or leasing the Registry to a person other
4 than a telephone solicitor, selling or leasing by a telephone
5 solicitor of the Registry, and a telephone solicitor, either
6 directly or indirectly, persuading a subscriber with whom it
7 has an established business relationship to place his or her
8 telephone number in the Registry, if the solicitation has the
9 effect of preventing competitors from contacting that
10 solicitor's customers.

11 (i) No person or entity that sells, leases, exchanges,
12 or rents telephone solicitation lists, except for directory
13 assistance and telephone directories sold by telephone
14 companies or their affiliates, shall include in those lists
15 those telephone numbers that appear in the current Registry.

16 Section 25. Enrollment.

17 (a) The Illinois Commerce Commission shall provide
18 notice to residential subscribers of the establishment of the
19 Registry.

20 (b) The Illinois Commerce Commission shall establish any
21 method deemed appropriate for a residential subscriber to
22 notify the Illinois Commerce Commission that the residential
23 subscriber wishes to have its telephone number included in
24 the Registry.

25 (c) The Commission may, by rule, set an initial fee
26 which shall not exceed \$5 per residential customer for
27 inclusion on the Restricted Call Registry. The Commission
28 shall review the revenues and expenditures of the Restricted
29 Call Registry on a biennial basis and shall, by rule, reduce
30 the fee accordingly if revenues exceed expenditures. The
31 Commission may adopt rules and procedures governing the
32 acceptance of payment by credit card and may enter into such
33 agreements as necessary to accept payment by credit card.

1 (d) A residential subscriber's telephone number shall be
2 deleted from the Registry upon the residential subscriber's
3 written request.

4 (e) Enrollment in the Registry is effective from the
5 start of the quarter following the date of enrollment until
6 the residential subscriber disconnects or changes his or her
7 telephone number or submits a written request to be deleted
8 from the Registry, whichever occurs first. The residential
9 subscriber is responsible for notifying the Illinois Commerce
10 Commission of any changes in his or her telephone number.

11 Section 30. Public notification. The Illinois Commerce
12 Commission shall work with local exchange telecommunications
13 companies to disseminate to their customers information about
14 the availability of and instructions for requesting
15 educational literature from the Illinois Commerce Commission.
16 The Illinois Commerce Commission may enter into agreements
17 with those companies for the dissemination of the educational
18 literature. Telecommunications companies shall disseminate
19 the educational literature at least once per year in a
20 message contained in customers' bills or a notice in the
21 information section of all telephone directories distributed
22 to customers and shall include on their website a link to the
23 ICC's web page for the Registry. The Illinois Commerce
24 Commission shall include, on its Internet web site,
25 information to customers regarding their right to be included
26 in the Registry and the various methods, including notice to
27 the Illinois Commerce Commission, of being included in the
28 Registry. The Illinois Commerce Commission shall have this
29 literature developed for dissemination to the public no later
30 than March 1, 2003.

31 Section 35. Violation; relief.

32 (a) The Illinois Commerce Commission may initiate

1 administrative proceedings in accordance with rules adopted
2 under this Act relating to a knowing and willful violation of
3 Section 10.

4 (b) If it is determined after a hearing that a person
5 has knowingly and willfully violated one or more provisions
6 of this Section, the Illinois Commerce Commission may assess
7 a fine not to exceed \$1,000 for the first violation and not
8 to exceed \$2,500 for a second or subsequent violation. Each
9 individual violation of Section 10 of this Act shall be a
10 separate and distinct offense under this Section. In
11 imposing a penalty under this Section, the Commission shall,
12 at a minimum, consider the following factors:

- 13 (1) whether the offense was knowing or willful;
- 14 (2) whether the entity committing the offense has a
15 prior history of non-compliance with this Act;
- 16 (3) the offender's relative ability to pay a
17 penalty;
- 18 (4) whether the offender has or has not cooperated
19 with the Commission in pursuing the investigation; and
- 20 (5) such other special, mitigating or aggravating
21 circumstances as the Commission may find to exist.

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

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

27 (e) No action or proceeding may be brought under this
28 Section:

- 29 (1) more than one year after the person bringing
30 the action knew or should have known of the occurrence of
31 the alleged violation; or
- 32 (2) more than one year after the termination of any
33 proceeding or action arising out of the same violation or
34 violations by the State of Illinois, whichever is later.

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

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

11 Section 40. Exemption.

12 (a) A person or entity may not be held liable for
13 violating this Act if:

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

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

21 (3) the person or entity maintains records
22 demonstrating compliance with subdivisions (1) and (2) of
23 this Section and the requirements of this Act; and

24 (4) any subsequent telephone solicitation is the
25 result of unintentional error.

26 (b) A person or entity that has entered into a contract
27 with another person or entity to make telephone solicitations
28 on its behalf is not liable for a violation of this Act by
29 the person or entity making telephone solicitations under the
30 contract if the person or entity on whose behalf the
31 telephone solicitations were made has provided written
32 notification to the person or entity making telephone
33 solicitations under the contract that it is necessary to

1 comply with the provisions of this Act when making telephone
2 solicitations.

3 Section 90. The State Finance Act is amended by adding
4 Section 5.570 as follows:

5 (30 ILCS 105/5.570 new)

6 Sec. 5.570. The Restricted Call Registry Fund.

7 Section 99. Effective date. This Act takes effect upon
8 becoming law."