

1 AN ACT concerning telephone solicitations.

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

4 Section 5. The Freedom of Information Act is amended by
5 changing Section 7 as follows:

6 (5 ILCS 140/7) (from Ch. 116, par. 207)

7 Sec. 7. Exemptions.

8 (1) The following shall be exempt from inspection and
9 copying:

10 (a) Information specifically prohibited from
11 disclosure by federal or State law or rules and
12 regulations adopted under federal or State law.

13 (b) Information that, if disclosed, would
14 constitute a clearly unwarranted invasion of personal
15 privacy, unless the disclosure is consented to in writing
16 by the individual subjects of the information. The
17 disclosure of information that bears on the public duties
18 of public employees and officials shall not be considered
19 an invasion of personal privacy. Information exempted
20 under this subsection (b) shall include but is not
21 limited to:

22 (i) files and personal information maintained
23 with respect to clients, patients, residents,
24 students or other individuals receiving social,
25 medical, educational, vocational, financial,
26 supervisory or custodial care or services directly
27 or indirectly from federal agencies or public
28 bodies;

29 (ii) personnel files and personal information
30 maintained with respect to employees, appointees or
31 elected officials of any public body or applicants

1 for those positions;

2 (iii) files and personal information
3 maintained with respect to any applicant, registrant
4 or licensee by any public body cooperating with or
5 engaged in professional or occupational
6 registration, licensure or discipline;

7 (iv) information required of any taxpayer in
8 connection with the assessment or collection of any
9 tax unless disclosure is otherwise required by State
10 statute; and

11 (v) information revealing the identity of
12 persons who file complaints with or provide
13 information to administrative, investigative, law
14 enforcement or penal agencies; provided, however,
15 that identification of witnesses to traffic
16 accidents, traffic accident reports, and rescue
17 reports may be provided by agencies of local
18 government, except in a case for which a criminal
19 investigation is ongoing, without constituting a
20 clearly unwarranted per se invasion of personal
21 privacy under this subsection.

22 (c) Records compiled by any public body for
23 administrative enforcement proceedings and any law
24 enforcement or correctional agency for law enforcement
25 purposes or for internal matters of a public body, but
26 only to the extent that disclosure would:

27 (i) interfere with pending or actually and
28 reasonably contemplated law enforcement proceedings
29 conducted by any law enforcement or correctional
30 agency;

31 (ii) interfere with pending administrative
32 enforcement proceedings conducted by any public
33 body;

34 (iii) deprive a person of a fair trial or an

1 impartial hearing;

2 (iv) unavoidably disclose the identity of a
3 confidential source or confidential information
4 furnished only by the confidential source;

5 (v) disclose unique or specialized
6 investigative techniques other than those generally
7 used and known or disclose internal documents of
8 correctional agencies related to detection,
9 observation or investigation of incidents of crime
10 or misconduct;

11 (vi) constitute an invasion of personal
12 privacy under subsection (b) of this Section;

13 (vii) endanger the life or physical safety of
14 law enforcement personnel or any other person; or

15 (viii) obstruct an ongoing criminal
16 investigation.

17 (d) Criminal history record information maintained
18 by State or local criminal justice agencies, except the
19 following which shall be open for public inspection and
20 copying:

21 (i) chronologically maintained arrest
22 information, such as traditional arrest logs or
23 blotters;

24 (ii) the name of a person in the custody of a
25 law enforcement agency and the charges for which
26 that person is being held;

27 (iii) court records that are public;

28 (iv) records that are otherwise available
29 under State or local law; or

30 (v) records in which the requesting party is
31 the individual identified, except as provided under
32 part (vii) of paragraph (c) of subsection (1) of
33 this Section.

34 "Criminal history record information" means data

1 identifiable to an individual and consisting of
2 descriptions or notations of arrests, detentions,
3 indictments, informations, pre-trial proceedings, trials,
4 or other formal events in the criminal justice system or
5 descriptions or notations of criminal charges (including
6 criminal violations of local municipal ordinances) and
7 the nature of any disposition arising therefrom,
8 including sentencing, court or correctional supervision,
9 rehabilitation and release. The term does not apply to
10 statistical records and reports in which individuals are
11 not identified and from which their identities are not
12 ascertainable, or to information that is for criminal
13 investigative or intelligence purposes.

14 (e) Records that relate to or affect the security
15 of correctional institutions and detention facilities.

16 (f) Preliminary drafts, notes, recommendations,
17 memoranda and other records in which opinions are
18 expressed, or policies or actions are formulated, except
19 that a specific record or relevant portion of a record
20 shall not be exempt when the record is publicly cited and
21 identified by the head of the public body. The exemption
22 provided in this paragraph (f) extends to all those
23 records of officers and agencies of the General Assembly
24 that pertain to the preparation of legislative documents.

25 (g) Trade secrets and commercial or financial
26 information obtained from a person or business where the
27 trade secrets or information are proprietary, privileged
28 or confidential, or where disclosure of the trade secrets
29 or information may cause competitive harm, including all
30 information determined to be confidential under Section
31 4002 of the Technology Advancement and Development Act.
32 Nothing contained in this paragraph (g) shall be
33 construed to prevent a person or business from consenting
34 to disclosure.

1 (h) Proposals and bids for any contract, grant, or
2 agreement, including information which if it were
3 disclosed would frustrate procurement or give an
4 advantage to any person proposing to enter into a
5 contractor agreement with the body, until an award or
6 final selection is made. Information prepared by or for
7 the body in preparation of a bid solicitation shall be
8 exempt until an award or final selection is made.

9 (i) Valuable formulae, designs, drawings and
10 research data obtained or produced by any public body
11 when disclosure could reasonably be expected to produce
12 private gain or public loss.

13 (j) Test questions, scoring keys and other
14 examination data used to administer an academic
15 examination or determined the qualifications of an
16 applicant for a license or employment.

17 (k) Architects' plans and engineers' technical
18 submissions for projects not constructed or developed in
19 whole or in part with public funds and for projects
20 constructed or developed with public funds, to the extent
21 that disclosure would compromise security.

22 (l) Library circulation and order records
23 identifying library users with specific materials.

24 (m) Minutes of meetings of public bodies closed to
25 the public as provided in the Open Meetings Act until the
26 public body makes the minutes available to the public
27 under Section 2.06 of the Open Meetings Act.

28 (n) Communications between a public body and an
29 attorney or auditor representing the public body that
30 would not be subject to discovery in litigation, and
31 materials prepared or compiled by or for a public body in
32 anticipation of a criminal, civil or administrative
33 proceeding upon the request of an attorney advising the
34 public body, and materials prepared or compiled with

1 respect to internal audits of public bodies.

2 (o) Information received by a primary or secondary
3 school, college or university under its procedures for
4 the evaluation of faculty members by their academic
5 peers.

6 (p) Administrative or technical information
7 associated with automated data processing operations,
8 including but not limited to software, operating
9 protocols, computer program abstracts, file layouts,
10 source listings, object modules, load modules, user
11 guides, documentation pertaining to all logical and
12 physical design of computerized systems, employee
13 manuals, and any other information that, if disclosed,
14 would jeopardize the security of the system or its data
15 or the security of materials exempt under this Section.

16 (q) Documents or materials relating to collective
17 negotiating matters between public bodies and their
18 employees or representatives, except that any final
19 contract or agreement shall be subject to inspection and
20 copying.

21 (r) Drafts, notes, recommendations and memoranda
22 pertaining to the financing and marketing transactions of
23 the public body. The records of ownership, registration,
24 transfer, and exchange of municipal debt obligations, and
25 of persons to whom payment with respect to these
26 obligations is made.

27 (s) The records, documents and information relating
28 to real estate purchase negotiations until those
29 negotiations have been completed or otherwise terminated.
30 With regard to a parcel involved in a pending or actually
31 and reasonably contemplated eminent domain proceeding
32 under Article VII of the Code of Civil Procedure,
33 records, documents and information relating to that
34 parcel shall be exempt except as may be allowed under

1 discovery rules adopted by the Illinois Supreme Court.
2 The records, documents and information relating to a real
3 estate sale shall be exempt until a sale is consummated.

4 (t) Any and all proprietary information and records
5 related to the operation of an intergovernmental risk
6 management association or self-insurance pool or jointly
7 self-administered health and accident cooperative or
8 pool.

9 (u) Information concerning a university's
10 adjudication of student or employee grievance or
11 disciplinary cases, to the extent that disclosure would
12 reveal the identity of the student or employee and
13 information concerning any public body's adjudication of
14 student or employee grievances or disciplinary cases,
15 except for the final outcome of the cases.

16 (v) Course materials or research materials used by
17 faculty members.

18 (w) Information related solely to the internal
19 personnel rules and practices of a public body.

20 (x) Information contained in or related to
21 examination, operating, or condition reports prepared by,
22 on behalf of, or for the use of a public body responsible
23 for the regulation or supervision of financial
24 institutions or insurance companies, unless disclosure is
25 otherwise required by State law.

26 (y) Information the disclosure of which is
27 restricted under Section 5-108 of the Public Utilities
28 Act.

29 (z) Manuals or instruction to staff that relate to
30 establishment or collection of liability for any State
31 tax or that relate to investigations by a public body to
32 determine violation of any criminal law.

33 (aa) Applications, related documents, and medical
34 records received by the Experimental Organ

1 Transplantation Procedures Board and any and all
2 documents or other records prepared by the Experimental
3 Organ Transplantation Procedures Board or its staff
4 relating to applications it has received.

5 (bb) Insurance or self insurance (including any
6 intergovernmental risk management association or self
7 insurance pool) claims, loss or risk management
8 information, records, data, advice or communications.

9 (cc) Information and records held by the Department
10 of Public Health and its authorized representatives
11 relating to known or suspected cases of sexually
12 transmissible disease or any information the disclosure
13 of which is restricted under the Illinois Sexually
14 Transmissible Disease Control Act.

15 (dd) Information the disclosure of which is
16 exempted under Section 30 of the Radon Industry Licensing
17 Act.

18 (ee) Firm performance evaluations under Section 55
19 of the Architectural, Engineering, and Land Surveying
20 Qualifications Based Selection Act.

21 (ff) Security portions of system safety program
22 plans, investigation reports, surveys, schedules, lists,
23 data, or information compiled, collected, or prepared by
24 or for the Regional Transportation Authority under
25 Section 2.11 of the Regional Transportation Authority Act
26 or the State of Missouri under the Bi-State Transit
27 Safety Act.

28 (gg) Information the disclosure of which is
29 restricted and exempted under Section 50 of the Illinois
30 Prepaid Tuition Act.

31 (hh) Information the disclosure of which is
32 exempted under Section 80 of the State Gift Ban Act.

33 (ii) Beginning July 1, 1999, information that would
34 disclose or might lead to the disclosure of secret or

1 confidential information, codes, algorithms, programs, or
2 private keys intended to be used to create electronic or
3 digital signatures under the Electronic Commerce Security
4 Act.

5 (jj) Information contained in a local emergency
6 energy plan submitted to a municipality in accordance
7 with a local emergency energy plan ordinance that is
8 adopted under Section 11-21.5-5 of the Illinois Municipal
9 Code.

10 (kk) ~~(jj)~~ Information and data concerning the
11 distribution of surcharge moneys collected and remitted
12 by wireless carriers under the Wireless Emergency
13 Telephone Safety Act.

14 (ll) Information contained in the database
15 established under the Telephone Solicitation Termination
16 Law.

17 (2) This Section does not authorize withholding of
18 information or limit the availability of records to the
19 public, except as stated in this Section or otherwise
20 provided in this Act.

21 (Source: P.A. 90-262, eff. 7-30-97; 90-273, eff. 7-30-97;
22 90-546, eff. 12-1-97; 90-655, eff. 7-30-98; 90-737, eff.
23 1-1-99; 90-759, eff. 7-1-99; 91-137, eff. 7-16-99; 91-357,
24 eff. 7-29-99; 91-660, eff. 12-22-99; revised 1-17-00.)

25 Section 10. The Public Utilities Act is amended by
26 adding Article XIIIIA as follows:

27 (220 ILCS 5/ART. XIIIIA heading new)

28 ARTICLE XIIIIA. TELEPHONE SOLICITATION TERMINATION LAW

29 (220 ILCS 5/13A-100 new)

30 Sec. 13A-100. This Article may be cited as the Telephone
31 Solicitation Termination Law.

1 (220 ILCS 5/13A-101 new)

2 Sec. 13A-101. Definitions. As used in this Article,
3 unless the context otherwise requires:

4 "Caller identification service" means telephone service
5 that notifies telephone subscribers of the telephone number
6 of incoming telephone calls.

7 "Existing customer" means a residential subscriber in
8 this State with whom the person or entity making a telephone
9 solicitation has had a prior relationship within the prior 12
10 months.

11 "Local exchange company" means a telecommunications
12 carrier, as defined in Section 13-202 of this Act, telephone
13 cooperatives, and cellular or other wireless
14 telecommunications providers.

15 "Person" means a natural person, individual, partnership,
16 corporation, trust, estate, incorporated or unincorporated
17 association, and any other legal or commercial entity however
18 organized and wherever located that telemarkets to persons
19 located within this State.

20 "Residential subscriber" means a person who has
21 subscribed to residential telephone service from a local
22 exchange company or a person residing with or visiting such a
23 person.

24 "Telephone solicitation" means a voice communication
25 originating from Illinois or elsewhere over a telephone for
26 the purpose of encouraging the purchase or rental of, or
27 investment in, property, goods, or services.

28 "Telephone solicitation" does not include:

29 (1) a voice communication over a telephone to a
30 residential subscriber with that subscriber's prior
31 express permission;

32 (2) a voice communication over a telephone to a
33 residential subscriber made on behalf of a not-for-profit
34 organization exempt from paying taxes under Section

1 501(c) of the Internal Revenue Code if a bona fide member
2 of the exempt organization makes the voice communication;

3 (3) a voice communication over a telephone to any
4 residential subscriber in this State who is an existing
5 customer; and

6 (4) occasional and isolated voice communications
7 over a telephone to a residential subscriber made on
8 behalf of a business if:

9 (A) a direct employee of the business makes
10 the voice communication;

11 (B) the communication is not made as part of a
12 telecommunications marketing plan;

13 (C) the business has a reasonable belief that
14 the specific person who is receiving the voice
15 communication is considering purchasing the service
16 or product sold or leased by the business and the
17 call is specifically directed to that person;

18 (D) the business does not sell or engage in
19 telemarketing services; and

20 (E) the business does not make more than 3
21 such voice communications in any one calendar week.

22 (220 ILCS 5/13A-105 new)

23 Sec. 13A-105. Identity of caller; authorized times for
24 solicitation. A person or entity that makes a telephone
25 solicitation to a residential subscriber in this State shall,
26 at the beginning of the call, state clearly the identity of
27 the person initiating the call and the entity or organization
28 the person represents. Without the permission of the
29 residential subscriber, a person or entity who makes a
30 telephone solicitation shall not call the subscriber at any
31 time other than between the hours of 8:00 a.m. and 9:00 p.m.
32 prevailing time.

1 (220 ILCS 5/13A-110 new)

2 Sec. 13A-110. Circumvention of caller identification
3 service prohibited. A person or entity that makes a telephone
4 solicitation to the telephone of a residential subscriber in
5 this State shall not knowingly utilize any method to block or
6 otherwise circumvent the subscriber's use of a caller
7 identification service.

8 (220 ILCS 5/13A-115 new)

9 Sec. 13A-115. Calls to persons objecting to
10 solicitation. A person or entity shall not knowingly make or
11 cause to be made a telephone solicitation to a residential
12 subscriber in this State who has given notice to the
13 Commission, in accordance with rules promulgated pursuant to
14 this Article, of that subscriber's objection to receiving
15 telephone solicitations.

16 (220 ILCS 5/13A-120 new)

17 Sec. 13A-120. Database of persons objecting to
18 solicitation; rules; enforcement actions.

19 (a) The Commission shall establish and provide for the
20 operation of a database to compile a list of telephone
21 numbers of residential subscribers who object to receiving
22 telephone solicitations. The Commission shall have the
23 database in operation no later than January 1, 2002. The
24 database may be operated by the Commission or by another
25 entity under contract with the Commission.

26 (b) No later than September 1, 2001, the Commission
27 shall promulgate rules that:

28 (1) require local exchange companies to
29 semi-annually inform their residential subscribers of the
30 opportunity to provide notification to the Commission or
31 its contractor that the subscriber objects to receiving
32 telephone solicitations;

1 (2) specify the methods by which a residential
2 subscriber may give notice to the Commission or its
3 contractor of the subscriber's objection to receiving
4 telephone solicitations or revocation of the objection;

5 (3) specify the length of time for which a notice
6 of objection shall be effective and the effect of a
7 change of telephone number on the notice of objection;

8 (4) specify the methods by which objections and
9 revocations shall be collected and added to the database;

10 (5) specify the methods by which any person or
11 entity desiring to make telephone solicitations may
12 obtain access to the database as required to avoid
13 calling the telephone numbers of residential subscribers
14 included in the database; and

15 (6) specify such other matters as the Commission
16 deems necessary to implement this Article.

17 (c) No later than September 1, 2001, the Commission
18 shall hold a hearing to receive testimony from entities
19 subject to the provisions of this Article who employ
20 independent contractors to make telephone solicitations to
21 determine if the Commission should authorize those
22 independent contractors to access the database at a reduced
23 fee. The Commission is authorized to allow such access and
24 develop a fee schedule for access to the database by
25 independent contractors and the entity that employs such
26 contractors.

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

33 (e) A person or entity desiring to make telephone
34 solicitations shall be charged a fee of \$500 per year payable

1 to the Commission for access to or for paper or electronic
2 copies of the database established under this Article.
3 Unlimited electronic copies of the database shall be provided
4 to persons or entities that pay the access fee. A fee shall
5 be established by rule of the Commission for paper copies of
6 the database.

7 (f) Information contained in the database established
8 under this Article shall not be subject to public inspection
9 or disclosure under the Freedom of Information Act. The
10 information shall be used only for the purpose of compliance
11 with this Article or in a proceeding or action under this
12 Article.

13 (g) The Commission is authorized to initiate proceedings
14 relative to a violation of this Article or any rules
15 promulgated pursuant to this Article. Authorized proceedings
16 include without limitation proceedings to issue a cease and
17 desist order, to issue an order imposing a civil penalty up
18 to a maximum of \$2,000 for each knowing violation, and to
19 seek additional relief in any court of competent
20 jurisdiction. Each violation shall be calculated in a liberal
21 manner to deter violations and to protect consumers. Each
22 telephone solicitation made to a residential subscriber
23 included on the list of subscribers who object to receiving
24 telephone solicitations shall constitute a separate
25 violation. The Commission is authorized to issue
26 investigative demands, issue subpoenas, administer oaths, and
27 conduct hearings in the course of investigating a violation
28 of this Article. All civil penalties assessed pursuant to the
29 provisions of this Article shall be deposited into the Public
30 Utility Fund.

31 (h) At the request of the Commission, the Attorney
32 General may bring an action in any court of competent
33 jurisdiction in the name of the State against any person or
34 entity relative to a violation of this Article or any rules

1 promulgated pursuant to this Article. The courts are
2 authorized to issue orders and injunctions to restrain and
3 prevent violations of this Article, and those orders and
4 injunctions shall be issued without bond. In any action
5 commenced by the State, the courts are authorized to order
6 the violator to pay reasonable attorney's fees and
7 investigative costs to the State. An action brought by the
8 attorney general may also include other causes of action such
9 as, but not limited to, a claim under the Consumer Fraud and
10 Deceptive Business Practices Act or under the Telephone
11 Solicitations Act.

12 (220 ILCS 5/13A-125 new)

13 Sec. 13A-125. Remedies not exclusive. The remedies,
14 duties, prohibitions, and penalties of this Article are not
15 exclusive and are in addition to the Telephone Solicitations
16 Act and all other causes of action, remedies, and penalties
17 provided by law.

18 (220 ILCS 5/13A-130 new)

19 Sec. 13A-130. Liability of caller identification service
20 providers. A provider of telephone caller identification
21 service shall not be held liable for violations of this
22 Article committed by other persons or entities.

23 (220 ILCS 5/13A-135 new)

24 Sec. 13A-135. Defenses. It shall be a defense in any
25 action or proceeding brought under this Article that the
26 defendant has established and implemented, with due care,
27 reasonable practices and procedures to effectively prevent
28 telephone solicitations in violation of this Article.

29 Section 99. Effective date. This Act takes effect upon
30 becoming law.