



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 such legal state of affairs between a  
11 person or entity and a residential subscriber where the  
12 payment or exchange of consideration for any goods or  
13 services has taken place within the preceding 18 months,  
14 or has been previously arranged to take place at a future  
15 time; or

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

21 (d) "Telephone solicitation" means any voice  
22 communication over a telephone line from a live operator  
23 through the use of ADAD equipment or by other means for the  
24 purpose of encouraging the purchase or rental of, or  
25 investment in property, goods, or services, but does not  
26 include communications:

27 (1) To any residential subscriber with that  
28 subscriber's prior express invitation or permission;

29 (2) By or on behalf of any person or entity with  
30 whom a residential subscriber has an established business  
31 relationship, which has not been terminated by either  
32 party in writing;

33 (3) By or on behalf of any person or entity with  
34 whom a residential subscriber is an existing customer,

1 unless the customer has stated to the person or entity or  
2 the person or entity's agent that he or she no longer  
3 wishes to receive the telemarketing sales calls of such  
4 person or entity;

5 (4) By or on behalf of an entity organized under  
6 Section 501(c)(3) of the United States Internal Revenue  
7 Code, while the entity is engaged in fund raising to  
8 support the charitable purpose for which the entity was  
9 established;

10 (5) By or on behalf of any entity over which a  
11 federal or State agency has regulatory authority to the  
12 extent that subject to that authority, the entity is  
13 required to maintain a license, permit, or certificate to  
14 sell or provide telecommunications services while the  
15 entity is engaged in telephone solicitation for long  
16 distance telecommunications services and or local  
17 telecommunications services until such time as all local  
18 exchange telecommunications services are determined to be  
19 competitive in all areas of the State by the Illinois  
20 Commerce Commission; and

21 (6) By or on behalf of a person licensed by the  
22 State of Illinois to carry out a trade, occupation or  
23 profession, who either:

24 (A) is setting or attempting to set a face to  
25 face appointment for actions relating to that  
26 licensed trade, occupation or profession within the  
27 state, or

28 (B) Is encouraging or attempting to encourage  
29 the purchase or rental of, or investment in  
30 property, goods, or services, which cannot be  
31 completed, and payment or authorization of payment  
32 is not required, until after a written or electronic  
33 agreement is signed by the residential subscriber.

1           Section 10. Complaints. The Office of the Secretary of  
2 State shall receive telephone solicitation complaints from  
3 residential subscribers who have registered with that Office  
4 to object to such calls. Complaints shall be taken by any  
5 means deemed appropriate by the Secretary of State.  
6 Complaints against entities that are licensed, certificated,  
7 or permitted by a State or federal agency shall be forwarded  
8 for investigation by the Office of the Secretary of State to  
9 the appropriate agency provided that the respective agency  
10 maintains investigative powers in such matters. All other  
11 complaints shall be investigated by the Office of the  
12 Secretary of State. The standards for such referrals and  
13 investigations shall be determined by rules established by  
14 the Office of the Secretary of State.

15           Section 15. Telephone solicitation. Beginning January 1,  
16 2003, no person or entity shall make or cause to be made any  
17 telephone solicitation to the telephone line of any  
18 residential subscriber in this State who has given notice to  
19 the Secretary of State, in accordance with rules adopted  
20 under this Act, of the subscriber's objection to receiving  
21 telephone solicitations.

22           Section 20. Database.

23           (a) The Secretary of State shall establish and provide  
24 for the operation of a database to compile a list of  
25 telephone numbers of residential subscribers who object to  
26 receiving telephone solicitations. The Secretary of State  
27 may enter into a contract with a third party for the  
28 operation of the database. The database shall be in  
29 operation no later than January 1, 2003.

30           (b) No later than July 1, 2002, the Secretary of State  
31 shall adopt rules consistent with this Act governing the  
32 establishment of a State no-call database the Secretary deems

1 necessary and appropriate to fully implement this Act. The  
2 rules shall include, at a minimum, methods by which any  
3 person or entity desiring to make telephone solicitations  
4 will obtain access to the database as required to avoid  
5 calling the telephone numbers of residential subscribers  
6 included in the database.

7 (c) The fee for persons or entities obtaining the list  
8 shall be determined by rules established by the Office of the  
9 Secretary of State, not to exceed \$200 annually. All copies  
10 requested in paper form shall be assessed a per page fee to  
11 be determined by rules established by the Office of the  
12 Secretary of State.

13 (d) The Secretary shall update the database and make  
14 information within the database available on a quarterly  
15 basis in a manner deemed appropriate by the Secretary, but at  
16 least electronically.

17 (e) Entities shall have 60-days from the quarterly  
18 update of the database to comply with Section 15 of this Act.

19 (f) If the Federal Communications Commission or Federal  
20 Trade Commission establishes a single national database of  
21 telephone numbers of subscribers who object to receiving  
22 telephone solicitations under Title 47 U.S.C., Section  
23 227(c)(3), Illinois shall discontinue the database  
24 established under this Act.

25 (g) Information contained in the database established  
26 under this Section shall be confidential and afforded  
27 reasonable privacy protection except as necessary for the  
28 purpose of compliance with Section 15, 25, and this Section  
29 or in a proceeding or action under Section 30. The  
30 information is not a public record under the Freedom of  
31 Information Act.

32 (h) The Secretary of State shall periodically obtain  
33 subscription listings of residential subscribers in this  
34 State who have arranged to be included any national

1 do-not-call list and add those names to the State do-not-call  
2 list.

3 Section 25. Enrollment.

4 (a) The Secretary of State shall establish any method  
5 deemed appropriate for residential subscribers to notify the  
6 Secretary of State that the residential subscriber wishes to  
7 be included in the database.

8 (b) There shall be no cost to the subscriber for joining  
9 the database.

10 (c) Any residential subscriber who wishes to be removed  
11 from the database may contact the Secretary of State in  
12 writing.

13 (d) Enrollment in the database shall be effective from  
14 the start of the quarter following the date of enrollment for  
15 a 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 shall be  
18 responsible for notifying the Secretary of State of any  
19 changes in his or her telephone number. The Office of the  
20 Secretary of State shall use its best efforts to notify  
21 enrolled consumers prior to the end of the 5-year enrollment  
22 term of the option to re-enroll. Those consumers who do not  
23 re-enroll prior to the end of the 5-year term shall be  
24 removed from the database.

25 Section 30. Relief.

26 (a) The Secretary of State may initiate administrative  
27 proceedings pursuant to rules promulgated under this Act  
28 relating to a knowing and willful violation of Section 15.  
29 If it is determined after hearing that any person has  
30 knowingly and willfully violated one or more provisions of  
31 this Section, the Secretary may assess a fine not to exceed  
32 \$2,500 for each violation. Any proceeding conducted pursuant

1 to this Section shall be subject to the Illinois  
2 Administrative Procedure Act.

3 (b) It is a defense in any action or proceeding brought  
4 under this Section that the defendant has established and  
5 implemented, with due care, reasonable practices and  
6 procedures to effectively prevent telephone solicitations in  
7 violation of Section 15.

8 (c) No action or proceeding may be brought under this  
9 Section:

10 (1) More than one year after the person bringing the  
11 action knew or should have known of the occurrence of the  
12 alleged violation; or

13 (2) More than one year after the termination of any  
14 proceeding or action arising out of the same violation or  
15 violations by the State of Illinois, whichever is later.

16 (d) The remedies, duties, prohibition, 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 (e) No provider of telephone caller identification  
20 service shall be held liable for violations of Section 15  
21 committed by other persons or entities.

22 (f) There is created in the State treasury a special fund  
23 to be known as the No-Call Database Fund. All fees and fines  
24 collected in the administration and enforcement of this Act  
25 shall be deposited into the Fund. Moneys in the Fund shall,  
26 subject to appropriation, be used by the Office of the  
27 Secretary of State for implementation, administration, and  
28 enforcement of this Act.

29 Section 35. Public Notification. The Secretary of State  
30 shall work with local exchange telecommunications companies  
31 to disseminate to their residential subscribers information  
32 about the availability of and instructions about how to  
33 request educational literature from the Secretary of State.

1 The Secretary of State may enter into agreements with those  
2 companies for the purpose of dissemination of the educational  
3 literature. Telecommunications companies shall be required  
4 to disseminate the respective literature at least once per  
5 year in the form of both a bill message and a notice in the  
6 information Section of all telephone directories circulated  
7 to residential subscribers. The Secretary of State shall  
8 include on his or her Internet web site information that  
9 informs residential subscribers of their rights to be placed  
10 on a no-call list and the various methods, including notice  
11 to the Secretary of State, of placing their names on this  
12 no-call list. The Secretary of State shall have this  
13 literature developed for dissemination to the public no later  
14 than January 1, 2002.

15 Section 105. The State Finance Act is amended by adding  
16 Section 5.545 as follows:

17 (30 ILCS 105/5.545 new)

18 Sec. 5.545. No-Call Database Fund.

19 Section 999. Effective date. This Act takes effect upon  
20 becoming law."