

1 AN ACT regarding telemarketing.

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 Telemarketing Registration and Fraud Prevention Act.

6 Section 5. Definitions. As used in this Act, unless the
7 context otherwise requires:

8 "Emergency telephone number" means any telephone number
9 that accesses or calls a fire department, law enforcement
10 agency, ambulance, hospital, medical center, poison control
11 center, rape crisis center, suicide prevention center, rescue
12 service, or the 911 emergency access number provided by law
13 enforcement agencies and police departments.

14 "Investment opportunity" means anything tangible or
15 intangible, that is offered for sale, sold, or traded based
16 wholly or in part on representations, either express or
17 implied, about past, present, or future income, profit, or
18 appreciation.

19 "Person" includes any individual, group of individuals,
20 firm, association, corporation, partnership, joint venture,
21 sole proprietorship, or any other business entity.

22 "Prize" means anything offered or purportedly offered and
23 given or purportedly given to a person by chance.

24 "Prize promotion" means a sweepstakes or other game of
25 chance or an oral or written, express or implied
26 representation that a person has won, has been selected to
27 receive, or is eligible to receive a prize or purported
28 prize.

29 "Seller" means any person who, in connection with a
30 telemarketing transaction, provides, offers to provide, or
31 arranges for others to provide goods or services to the

1 customer in exchange for consideration.

2 "Solicitation" means a written or oral notification or
3 advertisement that meets any one of the following terms:

4 (1) The notification or advertisement is
5 transmitted by or on behalf of the seller and by any
6 printed, audio, video, cinematic, telephone, or
7 electronic means.

8 (2) In the case of a notification or advertisement
9 other than by telephone, either of the following
10 conditions is met:

11 (A) The notification or advertisement is
12 followed by a telephone call from a telemarketer; or

13 (B) The notification or advertisement invites
14 a response by telephone, and through that response,
15 a telemarketer attempts to make a sale of goods or
16 services.

17 "Telemarketer" means any person who, in connection with
18 telemarketing, initiates telephone calls to or receives
19 telephone calls from a person in this State. "Telemarketer"
20 also means any person located within this State who, in
21 connection with telemarketing, initiates or receives
22 telephone calls. "Telemarketer" includes, but is not limited
23 to, any person who is an owner, operator, officer, director,
24 or partner to the management activities of a business.

25 "Telemarketing" means a plan, program, or campaign which
26 is conducted to induce the purchase of goods or services by
27 use of one or more telephones and which involves more than
28 one telephone call. "Telemarketing" may also include the
29 notification of a prize award. "Telemarketing" does not
30 include political fundraising.

31 Section 10. Exemptions. For purposes of registration
32 and bonding under Sections 15 and 20, "telemarketer" does not
33 include any of the following:

1 (1) Any securities, commodities, or investment brokers,
2 dealers, or investment advisers or associates of securities,
3 commodities, or investment brokers, dealers, or investment
4 advisers subject to license or registration by the Securities
5 and Exchange Commission, the National Association of
6 Securities Dealers, or any other self regulatory organization
7 as defined by 15 U.S.C. 781, or by an agency of this State or
8 any other state, who are soliciting within the scope of their
9 license or registration.

10 (2) A person engaged in solicitation for a religious,
11 charitable, political, educational, or other noncommercial
12 purpose; a person soliciting for a domestic or foreign
13 nonprofit corporation that is registered with the Illinois
14 Secretary of State; or the Illinois Attorney General's Office
15 under the Charitable Trust Act.

16 (3) A business making a sale to another business.

17 (4) A person that solicits sales by periodically
18 publishing and delivering a catalog of the person's
19 merchandise to prospective purchasers, if the catalog:

20 (A) Contains a written description or illustration
21 of each item offered for sale; and

22 (B) Includes the business or home address of the
23 person soliciting the sale.

24 (5) A person who solicits contracts for maintenance or
25 repair of goods previously purchased from that person or from
26 the person on whose behalf the solicitation is made.

27 (6) A person soliciting a transaction regulated by the
28 Commodity Futures Trading Commission if the person is
29 registered or temporarily licensed with the Commodity Futures
30 Trading Commission under the Commodity Exchange Act (7 U.S.C.
31 1 et seq.), and the person's registration or license is not
32 expired, suspended, or revoked.

33 (7) A supervised financial organization or parent,
34 subsidiary, or affiliate of a supervised financial

1 organization, or a licensee under the Consumer Installment
2 Loan Act.

3 (8) A person licensed as an insurance producer under
4 Article XXXI of the Illinois Insurance Code.

5 (9) An insurance company licensed under the Illinois
6 Insurance Code.

7 (10) A person soliciting the sale of services provided
8 by a satellite or cable television system authorized by the
9 federal government or this State to provide services in this
10 State.

11 (11) A telecommunications carrier or its subsidiary or
12 agent, or other business, regulated by the Illinois Commerce
13 Commission under Article XIII of the Public Utilities Act,
14 including but not limited to a telecommunications carrier as
15 defined at Section 13-202 of the Public Utilities Act; a
16 federally licensed cellular telephone service partner or its
17 agents; or a radio telecommunication service provider.

18 (12) A person soliciting business from consumers that
19 have an existing business relationship with or have
20 previously purchased from the business enterprise for which
21 the person is soliciting.

22 (13) A person operating a retail business establishment
23 under the same name as that used in the solicitation:

24 (A) Whose goods or services are displayed and
25 offered for sale at the business establishment; and

26 (B) A majority of whose business involves the
27 consumer obtaining the goods or services at the business
28 establishment.

29 (14) A person soliciting for the sale of a magazine or
30 newspaper of general circulation.

31 (15) An issuer or a subsidiary of an issuer that is
32 authorized to offer securities for sale in this State.

33 (16) A seller who offers:

34 (A) A book, video, record, multimedia club offer,

1 contractual plan, or arrangement along with which the
2 seller provides the consumer with a form the consumer may
3 use to instruct the seller not to ship the offered
4 merchandise;

5 (B) A book, video, record, multimedia club offer,
6 contractual plan, or arrangement that is regulated by
7 Part 425 of the Federal Trade Commission regulation
8 concerning the use of negative option plans by sellers in
9 commerce (16 CFR 425); or

10 (C) Books, records, videos, multimedia products, or
11 other goods for sale that are not covered by subdivisions
12 (A) or (B) of this item (16), including continuity plans,
13 subscription arrangements, standing order arrangements,
14 single sales, supplements, or series arrangements under
15 which the seller periodically ships merchandise to a
16 consumer who has consented in advance to receive the
17 merchandise on a periodic basis.

18 (17) A real estate salesperson or broker licensed by
19 this State.

20 (18) Any person that has provided telemarketing sales
21 services under the same business name as, and derives at
22 least 50% of gross telemarketing sales revenues from
23 contracts with, persons exempted under this Section from
24 registration requirements.

25 (19) A person soliciting the sale of food or food
26 products if the solicitation is not intended to and does not
27 result in a sale in excess of \$100 to a single address.

28 (20) A public utility or its subsidiary, affiliate, or
29 agent, or other business regulated by the Illinois Commerce
30 Commission under the Public Utilities Act.

31 Section 15. Registration of telemarketers.

32 (a) No person shall act as a seller or telemarketer
33 without first having registered with the Attorney General.

1 The initial application for registration shall be made at
2 least 60 days prior to offering consumer goods or services
3 and an application for renewal shall be made on an annual
4 basis thereafter.

5 (b) The Attorney General's Office shall charge
6 reasonable application and renewal fees for administration of
7 the registration requirements pursuant to this Section. All
8 fees collected under this Section shall be deposited in the
9 State Treasury in the special fund known as the
10 Telemarketing Fraud Enforcement Fund and shall be used only
11 for the purposes described in Section 75. The certificate of
12 registration or registration renewal shall expire one year
13 after the date on which it is issued. The application and
14 renewal fees and process shall be established through the
15 promulgation of a rule pursuant to the Illinois
16 Administrative Procedure Act.

17 (c) The application for a certificate of registration
18 or renewal shall include, but not be limited to, the
19 following information:

20 (1) The true name, date of birth, driver's license
21 number, social security number or tax identification
22 number, business address, and home address of the
23 applicant (post office boxes or commercial mail receiving
24 agencies are not permitted), including each name under
25 which the applicant intends to engage in telephone
26 solicitations.

27 (2) Each business or occupation engaged in by the
28 applicant during the 2 years immediately preceding the
29 date of the application, and the location of each such
30 business or occupation.

31 (3) Whether, in a court of competent jurisdiction
32 in this State, any other state, or the United States, any
33 principal or manager has been convicted of, has pleaded
34 guilty to, has entered a plea of no contest for, or is

1 being prosecuted by indictment or information for
2 racketeering, any violation of state or federal
3 securities law, or a theft offense.

4 (4) Whether, in any jurisdiction, there has been
5 entered against the applicant an injunction, a temporary
6 restraining order, or a final judgment or order,
7 including an agreed judgment or order, an assurance of
8 voluntary compliance, or any similar instrument, in any
9 civil or administrative action involving fraud, theft,
10 racketeering, embezzlement, fraudulent conversion,
11 misappropriation of property, or any consumer protection
12 law or telemarketing law, or if there is any pending
13 litigation against the applicant involving these matters.

14 (5) Whether, in any jurisdiction, the applicant has
15 been arrested for, has been convicted of, has pleaded
16 guilty to, has entered a plea of no contest to, or is
17 being prosecuted by indictment or information for a
18 felony and, if so, the nature of the felony.

19 (6) Whether in a court of competent jurisdiction of
20 this State, any other state, or the United States, the
21 applicant has been convicted of, has pleaded guilty to,
22 has entered a plea of no contest for, or is being
23 prosecuted by indictment or information for engaging in a
24 pattern of corrupt activity, racketeering, a violation of
25 federal or state securities law, or a theft offense as
26 defined in Section 16-1 of the Criminal Code of 1961 or
27 in similar law of any other state or the United States.

28 (7) Whether the applicant, at any time during the
29 previous 7 years, has filed for bankruptcy, been adjudged
30 bankrupt, or been reorganized because of insolvency.

31 (8) The true name, current home address, date of
32 birth, social security number, and all others by which
33 known or previously known, of each of the following:

34 (A) Each principal officer, director, owner,

1 or partner of the applicant, and each other person
2 participating in or responsible for the management
3 of the applicant's business.

4 (B) Each office manager or other person
5 principally responsible for each location from which
6 the applicant will do business.

7 (9) The name and address of every institution where
8 banking or any other monetary transactions are done by
9 the seller.

10 (10) A copy of all scripts, outlines, or
11 presentation material the applicant will require or
12 suggest be used by a salesperson when soliciting as well
13 as all sales information to be provided by the applicant
14 to a purchaser in connection with any solicitation.

15 Section 20. Surety bond.

16 (a) No person shall act as a telemarketer without having
17 first obtained a surety bond issued by a surety company that
18 holds a certificate of authority to do business in this State
19 issued by the Department of Insurance under the Illinois
20 Insurance Code. With regard to the surety bond, the
21 following conditions must be met before a person may act as a
22 telemarketer:

23 (1) A copy of the bond must be filed with the
24 Attorney General.

25 (2) The bond must be in favor of any person, and of
26 the State for the benefit of any person, that is injured
27 by violation of this Act or a rule adopted under this Act
28 pursuant to the Illinois Administrative Procedure Act.

29 (3) The bond must be in the amount of \$100,000.

30 (4) The bond must be maintained and in effect for
31 at least 2 years after the date on which the telemarketer
32 ceases to engage in telephone solicitations.

33 (b) Any person making a claim against the bond for

1 violation of any provision of this Act or rule adopted under
2 this Act may maintain a civil action against the telemarketer
3 and the surety company. The surety company is liable only
4 for damages awarded under Section 70 and is not liable for
5 attorney's fees awarded under Section 70. The aggregate
6 liability of the surety company to all persons injured by a
7 telemarketer's violation of this Act shall not exceed the
8 amount of the bond.

9 (c) The registration of any telemarketer shall be void
10 upon termination of the bond of the surety company or loss of
11 the bond unless, prior to such termination, a new bond has
12 been filed with the Attorney General's Office. The surety,
13 for any cause, may cancel the bond upon giving a 60 day
14 written notice to the telemarketer and to the Attorney
15 General. Unless the bond is replaced by that of another
16 surety before the expiration of the 60 day notice of
17 cancellation, the registration of the telemarketer shall be
18 treated as lapsed. For 2 years after the cancellation takes
19 effect, a person may make a claim against the bond for a
20 violation that occurred while the bond was in effect.

21 (d) Any person required under this Act to file a bond
22 with a registration application may file, in lieu of the
23 bond, a certificate of deposit, in cash or government bond,
24 in the amount of \$100,000.

25 (e) The Attorney General shall hold the cash,
26 certificate of deposit, or government bond for 2 years from
27 the period the telemarketing business ceases to operate or
28 registration lapses in order to pay out claims made against
29 the telemarketing business during its period of operation.

30 Section 25. Record keeping requirements.

31 (a) Any telemarketer shall keep, for a period of 24
32 months from the date the record is produced, the following
33 records:

1 (1) All substantially different advertisements,
2 brochures, and other promotional materials.

3 (2) The name and last known address of each prize
4 recipient and the prize awarded for prizes that are
5 represented to have a value of \$25 or more.

6 (3) The name and last known address of each
7 consumer, the goods or services purchased, the date such
8 goods or services were shipped or provided, and the
9 amount paid by the consumer for the goods or services.

10 (4) The name, last known home address, telephone
11 number, and job title for all current and former
12 employees directly involved in telephone sales.

13 (5) All written confirmations required to be
14 provided or received under this Act.

15 (b) In the event of any dissolution or termination of
16 the telemarketer's business, the principal of that
17 telemarketer shall maintain all records as required under
18 this Section. In the event of any sale, assignment, or other
19 change in ownership of the seller's business, the purchaser
20 shall maintain all records required under this Section.

21 Section 30. Mandatory disclosures.

22 (a) The telemarketer shall disclose promptly and in a
23 clear and conspicuous manner to a consumer during a telephone
24 solicitation:

25 (1) The identity of the seller.

26 (2) That the purpose of the call is to sell goods
27 or services.

28 (3) The nature of the goods or services.

29 (b) Before a consumer pays for the goods or services
30 offered for sale or provides any financial or payment
31 information to a telemarketer, the telemarketer shall
32 disclose, clearly and conspicuously, the following material
33 information:

1 (1) The total cost to purchase, receive, or use the
2 consumer goods or services that are the subject of the
3 telemarketing communication.

4 (2) The quantity of the consumer goods or services
5 that are the subject of the telemarketing solicitation.

6 (3) All material restrictions, limitations, or
7 conditions to purchase, receive, or use the consumer
8 goods or services that are the subject of the
9 telemarketing solicitation.

10 (4) All material aspects of the nature or terms of
11 the telemarketer's refund, cancellation, exchange, or
12 repurchase policies.

13 (5) In any prize promotion:

14 (A) A statement of all material conditions to
15 receive or redeem the prize.

16 (B) The odds of receiving a prize, and if the
17 odds are not calculable in advance, the factors and
18 methods used in calculating the odds.

19 (C) A clear statement that the consumer is not
20 required to make any purchase to win a prize or
21 participate in the prize promotion, including a
22 statement that the consumer is not required to pay
23 any shipping or handling costs.

24 (D) A clear explanation of the
25 no-purchase/no-payment method of participating in
26 the prize promotion.

27 Section 35. Do not call list. It is an unlawful act or
28 practice and violation of this Act for any telemarketer to
29 initiate a telephone solicitation to a consumer who
30 previously has requested the telemarketer to refrain from
31 calling the consumer. Compliance with Section 310.4(b) of
32 the Federal Trade Commission's Telemarketing Sales Rule shall
33 constitute compliance with this Section.

1 Section 40. Written confirmation.

2 (a) Except as provided in subsection (c), (d), and (e),
3 the telemarketer shall furnish the consumer, in the same
4 language as that principally used in the sales presentation,
5 a written confirmation.

6 (b) The written confirmation furnished under subsection
7 (a) shall be mailed using first class mail, postage prepaid,
8 no later than 10 days after the telemarketing sale. The
9 written confirmation shall be in 12 point type; shall be a
10 separate document for the purpose of confirming the
11 telemarketing sale; and shall contain the following
12 information:

13 (1) The name and address of the seller.

14 (2) The total costs to purchase, receive, or use,
15 and the quantity of, any goods or services that are the
16 subject of the sale.

17 (3) All material restrictions, limitations, or
18 conditions to purchase, receive, or use the goods or
19 services that are the subject of the sale.

20 (4) If the seller has a policy of not making
21 refunds, cancellations, exchanges, or repurchases, a
22 statement informing the customer that this is the
23 seller's policy; or, if the seller or telemarketer makes
24 a representation about a refund, cancellation, exchange,
25 or repurchase policy, a statement of all material terms
26 and conditions of the policy.

27 (5) A toll-free number to call should the consumer
28 wish to cancel the telemarketing sale.

29 (c) A written confirmation is not required if the
30 telemarketing sale is regulated by other laws of the State.

31 (d) A sale is not subject to the requirements of this
32 Section if the seller, at a minimum, has a policy of:

33 (1) accepting returns or cancelling services in
34 connection with the return of unused and undamaged goods

1 or cancelled services for a period of not less than 7
2 days after the date of delivery to the consumer and
3 providing a cash refund for a cash purchase or issuing a
4 credit for a credit purchase applied to the account that
5 was debited;

6 (2) disclosing the seller's refund and return
7 policy to the consumer by telephone or in writing
8 included with advertising or promotional material, or
9 with the delivery of the goods or services; and

10 (3) restoring payments or issuing credits pursuant
11 to subdivision (d)(1), within 30 days after the date on
12 which the seller receives the returned goods or notice of
13 cancellation of services. A seller who discloses in
14 writing that a sale is subject to "satisfaction
15 guaranteed", "free inspection", "a no risk guarantee", or
16 similar words or phrases shall be considered to have met
17 the review and return for refund policy requirements of
18 this subsection.

19 (e) A written confirmation is not required if the
20 telemarketing sale results in a written contract signed by
21 the consumer.

22 Section 45. Acts and practices not covered under this
23 Act. The following acts and practices are not covered under
24 this Act:

25 (1) Telephone calls in which the sale of goods or
26 services is not completed, and payment or authorization of
27 payment is not required, until after a face-to-face
28 presentation by the seller.

29 (2) Telephone calls initiated by a consumer that are not
30 the result of any telephone solicitation by a telemarketer.

31 (3) Telephone calls made by an autodialer as defined in
32 the Automatic Telephone Dialers Act.

33 (4) Telephone calls initiated by a consumer in response

1 to a direct mail solicitation that clearly, conspicuously,
2 and truthfully discloses all material information listed in
3 subsection (b) of Section 30 for any item offered in the
4 direct mail solicitation; provided, however, that this
5 exemption does not apply to calls initiated by a consumer in
6 response to a direct mail solicitation relating to prize
7 promotions, investment opportunities, goods or services
8 described in subdivisions (a)(9) and (a)(12) of Section 50,
9 or direct mail solicitations that guarantee or represent a
10 high likelihood of success in obtaining or arranging for
11 extensions of credit, if payment of a fee is required in
12 advance of obtaining the extension of credit.

13 (5) Telephone calls initiated by a consumer in response
14 to an advertisement through any media, other than direct mail
15 solicitations; provided however, that this exemption does not
16 apply to calls initiated by a consumer in response to an
17 advertisement relating to investment opportunities, goods, or
18 services described in subdivisions (a)(9) and (a)(12) of
19 Section 50, or advertisements that guarantee or represent a
20 high likelihood of success in obtaining or arranging for
21 extensions of credit, if payment of a fee is required in
22 advance of obtaining the extension of credit.

23 (6) Telephone calls made by a collection agency
24 registered with the Department of Professional Regulation
25 under the Illinois Collection Agency Act.

26 (7) Telephone calls related to the personal service
27 relationship between a retail business establishment and a
28 consumer who has had or has a business relationship with that
29 retailer.

30 Section 50. Unlawful acts or practices.

31 (a) It is an unlawful act or practice and a violation of
32 this Act for any telemarketer to engage in the following
33 conduct:

1 (1) To obtain a certificate of registration or
2 registration renewal through any false or fraudulent
3 representation or make any material misrepresentation in
4 any registration or registration renewal application.

5 (2) To fail to maintain a valid certificate of
6 registration or registration renewal.

7 (3) To provide inaccurate or incomplete information
8 to the Attorney General when making an application for a
9 certificate of registration or registration renewal.

10 (4) To misrepresent that a person is registered or
11 that a person has a valid certificate number.

12 (5) To misrepresent, directly or by implication,
13 any of the following information:

14 (A) The total cost to purchase, receive, or
15 use, and the quantity of, any goods or services that
16 are the subject of a solicitation.

17 (B) A material restriction, limitation, or
18 condition to purchase, receive, or use goods or
19 services that are the subject of a solicitation.

20 (C) A material aspect of the performance,
21 efficacy, nature, or characteristics of goods or
22 services that are the subject of a solicitation.

23 (D) A material aspect of the nature or terms
24 of the seller's refund, cancellation, exchange, or
25 repurchase policies.

26 (E) A material aspect of a prize promotion,
27 including, but not limited to, the odds of being
28 able to receive a prize, the nature of a prize, the
29 actual number of each prize to be awarded or given,
30 or that a purchase or payment of any kind is
31 required to win a prize or participate in a prize
32 promotion.

33 (F) A material aspect of an investment
34 opportunity, including, but not limited to, risk,

1 liquidity, earnings potential, or profitability.

2 (G) The telemarketer's affiliation with or
3 endorsement by any government or third-party
4 organization.

5 (6) To make a false or misleading statement to
6 induce a consumer to pay for goods or services.

7 (7) To fail to notify the Attorney General within
8 15 days if, in a court of competent jurisdiction of this
9 State or any other state or the United States, the
10 telemarketer is convicted of, pleads guilty to, or enters
11 a plea of no contest for a felony, engaging in a pattern
12 of corrupt activity, racketeering, a violation of federal
13 or state securities law, or a theft offense.

14 (8) To advertise or represent that registration as
15 a telemarketer is an endorsement or approval by the State
16 or any governmental agency of the State.

17 (9) To request or receive payment of any fee or
18 consideration for goods or services represented to remove
19 derogatory information from or improve a person's credit
20 history, credit record, or credit rating until:

21 (A) The time frame in which the telemarketer
22 has represented all of the goods or services will be
23 provided to that person has expired; and

24 (B) The telemarketer has provided the person
25 with documentation in the form of a consumer report
26 from a consumer reporting agency demonstrating that
27 the promised results have been achieved, such report
28 having been issued more than 6 months after the
29 results were achieved.

30 (10) Obtain or submit for payment a check, draft,
31 or other form of negotiable paper drawn on a person's
32 checking, savings, bond, or other account without the
33 consumer's express written authorization.

34 (11) To procure the services of any professional

1 delivery, courier, or other pick-up service to obtain
2 immediate receipt and possession of a consumer's payment
3 unless:

4 (A) Such service is requested by the consumer;

5 and

6 (B) The consumer is actually afforded an
7 opportunity to inspect the goods or services prior
8 to payment.

9 (12) To request or receive payment in advance from
10 a consumer to recover or otherwise aid in the return of
11 money or any other item lost by the consumer in a prior
12 telemarketing transaction.

13 (13) To misrepresent the requirements of this
14 Section.

15 (14) To assist, support, or provide substantial
16 assistance to any telemarketer when the seller knows or
17 should know that the telemarketer is engaged in any act
18 or practice which violates this Section or Section 30.

19 (15) To make or cause to be made a telephone call
20 to any emergency telephone number.

21 (16) To request or receive payment of any fee or
22 consideration in advance of obtaining a loan or other
23 extension of credit when the seller or telemarketer has
24 guaranteed or represented a high likelihood of success in
25 obtaining or arranging a loan or other extension of
26 credit for a consumer.

27 Section 55. Abusive acts and practices unlawful under
28 this Act. It is an abusive telemarketing act or practice and
29 a violation of this Act for any telemarketer to engage in the
30 following conduct:

31 (1) Threaten, intimidate, or use profane or obscene
32 language.

33 (2) Engage any person repeatedly or continuously

1 with behavior a reasonable person would deem to be
2 annoying, abusive, or harassing.

3 (3) Initiate an outbound telephone call to a person
4 when that person previously has stated that he or she
5 does not wish to receive an outbound telephone call made
6 on behalf of the telemarketer whose goods or services are
7 being offered in compliance with Section 35.

8 (4) Engage in telemarketing to a person's residence
9 at any time other than between 8 a.m. and 9 p.m. local
10 time, Monday through Sunday, at the called person's
11 location.

12 Section 60. Enforcement by Attorney General. Violation
13 of any of the provisions of this Act is an unlawful practice
14 under the Consumer Fraud and Deceptive Business Practices
15 Act. All remedies, penalties, and authority granted to the
16 Attorney General by that Act shall be available to the
17 Attorney General for the enforcement of this Act.

18 Section 65. Criminal penalties. A knowing violation of
19 Section 15, 20, 25, 30, 35, 40, 50, or 55 is a Class A
20 misdemeanor for which, upon conviction, the court shall
21 impose a minimum fine of \$500 for each violation.

22 Section 70. Private right of action.

23 (a) Any person who suffers actual damages as a result of
24 a violation of this Act committed by any other person may
25 bring an action against that person. The court, in its
26 discretion, may award actual economic damages or any other
27 relief which the court deems proper.

28 (b) The action may be commenced in the county in which
29 the person against whom it is brought resides, has his
30 principal place of business, or is doing business, or in the
31 county where the transaction or any substantial portion of

1 the transaction occurred.

2 (c) In any action brought by a person under this
3 Section, the court may grant injunctive relief where
4 appropriate and may award, in addition to the relief provided
5 in this Section, reasonable attorney's fees and costs to the
6 prevailing party.

7 (d) Upon commencement of any action brought under this
8 Section, the plaintiff shall mail a copy of the complaint or
9 other initial pleading to the Attorney General and, upon
10 entry of any judgment or order in the action, shall mail a
11 copy of the judgment or order to the Attorney General.

12 (e) Any action for damages under this Section shall be
13 forever barred unless commenced within 3 years after the
14 cause of action accrued; provided that, whenever any action
15 is brought by the Attorney General or a State's Attorney for
16 a violation of this Act, the running of the statute of
17 limitations, with respect to every private right of action
18 for damages which is based in whole or in part on any matter
19 complained of in the action by the Attorney General or
20 State's Attorney, shall be suspended during the pendency of
21 the action, and for one year thereafter.

22 Section 75. Telemarketing Fraud Enforcement Fund. There
23 is hereby created in the State Treasury the Attorney General
24 Telemarketing Fraud Enforcement Fund. The State Treasurer
25 shall deposit in the fund registration fees paid pursuant to
26 this Act. Subject to appropriation by the legislature, the
27 Attorney General shall use the monies in the fund for the
28 administration and enforcement of the program of registration
29 established in this Act and also for educational activities
30 that advance the purposes of this Act.

31 Section 80. Rules. The Attorney General may adopt any
32 rules necessary to implement this Act, pursuant to the

1 Illinois Administrative Procedure Act, which rules shall have
2 the force of law.

3 Section 85. Construction of Act. This Act shall be
4 liberally construed to effect its purposes.

5 Section 905. The State Finance Act is amended by adding
6 Section 5.545 as follows:

7 (30 ILCS 105/5.545 new)

8 Sec. 5.545. The Attorney General Telemarketing Fraud
9 Enforcement Fund.

10 (815 ILCS 413/Act rep.)

11 Section 910. The Telephone Solicitations Act is
12 repealed.

13 Section 915. The Consumer Fraud and Deceptive Business
14 Practices Act is amended by changing Section 2Z as follows:

15 (815 ILCS 505/2Z) (from Ch. 121 1/2, par. 262Z)

16 Sec. 2Z. Violations of other Acts. Any person who
17 knowingly violates the Automotive Repair Act, the Home Repair
18 and Remodeling Act, the Dance Studio Act, the Physical
19 Fitness Services Act, the Hearing Instrument Consumer
20 Protection Act, the Illinois Union Label Act, the Job
21 Referral and Job Listing Services Consumer Protection Act,
22 the Travel Promotion Consumer Protection Act, the Credit
23 Services Organizations Act, the Automatic Telephone Dialers
24 Act, the Pay-Per-Call Services Consumer Protection Act, the
25 Telemarketing Registration and Fraud Prevention Telephone
26 Solicitations Act, the Illinois Funeral or Burial Funds Act,
27 the Cemetery Care Act, the Safe and Hygienic Bed Act, the
28 Pre-Need Cemetery Sales Act, subsection (a) or (b) of Section

1 3-10 of the Cigarette Tax Act, subsection (a) or (b) of
2 Section 3-10 of the Cigarette Use Tax Act, or the Electronic
3 Mail Act commits an unlawful practice within the meaning of
4 this Act.

5 (Source: P.A. 90-426, eff. 1-1-98; 91-164, eff. 7-16-99;
6 91-230, eff. 1-1-00; 91-233, eff. 1-1-00; 91-810, eff.
7 6-13-00.)