

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 1. Short title. This Act may be cited as the
5 Telephone Solicitation Consumer Listing Act.

6 Section 5. Definitions. As used in this Act:

7 "Commission" means the Illinois Commerce Commission.

8 "Consumer" means a residential telephone subscriber who
9 is an actual or a prospective purchaser, lessee, or recipient
10 of consumer goods or services or donor to a charitable
11 organization.

12 "Consumer goods or services" means any of the following:

13 (1) Tangible or intangible personal property or real
14 property that is normally used for personal, family, or
15 household purposes.

16 (2) Property intended to be attached to or
17 installed on real property without regard to whether it
18 is attached or installed.

19 (3) Services related to property described in items
20 (1) or (2).

21 (4) Credit cards or the extension of credit.

22 "Doing business in Illinois" means making telephone sales
23 calls to consumers located in Illinois whether the telephone
24 sales calls are made from a location in Illinois or outside
25 Illinois.

26 "Fund" refers to the Consumer Protection Telephone
27 Solicitation Fund.

28 "Listing" refers to the no telephone sales solicitation
29 listing published by the Commission that lists the names of
30 persons who do not wish to receive telephone sales calls.

31 "Telephone number" means a residential telephone number.

1 "Telephone sales call" means a telephone call made to a
2 consumer for any of the following purposes:

3 (1) Solicitation of a sale of consumer goods or
4 services.

5 (2) Solicitation of a charitable contribution.

6 (3) Obtaining information that will or may be used
7 for the direct solicitation of a sale of consumer goods
8 or services or an extension of credit for such purposes.

9 "Telephone sales call" includes a call made by use of
10 automated dialing or recorded message devices.

11 "Telephone solicitor" means an individual, a firm, an
12 organization, a partnership, an association, or a
13 corporation, including affiliates and subsidiaries, doing
14 business in Illinois.

15 Section 10. Application of Act.

16 (a) This Act does not apply to any of the following:

17 (1) A telephone call made in response to an express
18 request of the person called.

19 (2) A telephone call made primarily in connection
20 with an existing debt or contract for which payment or
21 performance has not been completed at the time of the
22 call.

23 (3) A telephone call made on behalf of a charitable
24 organization that is exempt from federal income taxation
25 under Section 501 of the Internal Revenue Code, but only
26 if all of the following apply:

27 (A) The telephone call is made by a volunteer
28 or an employee of the charitable organization.

29 (B) The telephone solicitor who makes the
30 telephone call immediately discloses upon making
31 contact with the consumer the solicitor's true first
32 and last name and the name, address, and telephone
33 number of the charitable organization.

1 (4) A telephone call made by an individual licensed
2 under the Real Estate License Act of 2000 if the sale of
3 goods or services is not completed and the payment or
4 authorization of payment is not required until after a
5 face to face sales presentation by the seller.

6 (5) A telephone call made by an individual licensed
7 as an insurance producer under the Illinois Insurance
8 Code when the individual is soliciting an application for
9 insurance or negotiating a policy of insurance on behalf
10 of an insurer.

11 (6) A telephone call soliciting the sale of a
12 newspaper of general circulation, but only if the
13 telephone call is made by a volunteer or an employee of
14 the newspaper.

15 (b) This Act does not relieve a person from complying
16 with any other applicable law.

17 Section 15. Listing.

18 (a) The Commission shall establish, maintain, and
19 publish a quarterly listing of telephone numbers of Illinois
20 consumers who request not to be solicited by telephone.

21 (b) The telephone number of a consumer shall be placed
22 on the listing if the consumer requests to be added to the
23 listing according to a procedure approved by the Commission.

24 (c) The listing shall be updated upon receipt of a
25 request from a consumer.

26 (d) A telephone solicitor may obtain a copy of the
27 listing upon request of the telephone solicitor as provided
28 in this Section.

29 (e) The Commission shall establish a fee to be paid by a
30 telephone solicitor for obtaining a copy of the listing. The
31 fee established under this subsection (e) may not exceed the
32 amount necessary to cover the cost of providing the listing
33 to telephone solicitors.

1 Section 20. Contract for listing.

2 (a) The Commission may contract with an agent to perform
3 the Commission's duties under Section 15 of this Act if both
4 (i) the agent has demonstrated experience in maintaining a
5 national no sales solicitation calls listing and (ii) the
6 contract requires the vendor to provide the listing in a
7 printed hard copy format and any other format offered at a
8 cost that does not exceed the production cost of the format
9 offered.

10 (b) If the Commission enters into a contract under this
11 Section, the Commission must retain the ultimate authority
12 for approval of the procedures for establishment,
13 maintenance, and publication of the listing and establishing
14 fees required by subsection (e) of Section 15 of this Act.

15 Section 25. Duties of the Commission.

16 (a) The Commission shall investigate complaints received
17 concerning violations of this Act.

18 (b) The Commission shall notify Illinois residents of
19 the rights and duties created by this Act.

20 (c) The Commission shall, after June 30 and before
21 October 1 of each year, report to the General Assembly on the
22 following:

23 (1) For the fiscal year ending June 30, 2003, the
24 expenses incurred by the Commission in establishing the
25 listing.

26 (2) The total amount of fees deposited in the Fund
27 during the most recent fiscal year.

28 (3) The expenses incurred by the Commission in
29 maintaining and promoting the listing during the most
30 recent fiscal year.

31 (4) The projected budget required by the Commission
32 to comply with this Act during the current fiscal year.

33 (5) Any other expenses incurred by the Commission

1 in complying with this Act during the most recent fiscal
2 year.

3 (6) The total number of consumers on the listing at
4 the end of the most recent fiscal year.

5 (7) The number of new consumers added to the
6 listing during the most recent fiscal year.

7 (8) The number of consumers removed from the
8 listing for any reason during the most recent fiscal
9 year.

10 Section 30. The Consumer Protection Telephone
11 Solicitation Fund.

12 (a) The Consumer Protection Telephone Solicitation Fund
13 is created as a special fund in the State treasury for the
14 purpose of the administration of this Act and shall be used,
15 subject to appropriation, exclusively for this purpose.

16 (b) The Commission shall administer the Fund.

17 (c) The Commission shall deposit all revenue received
18 under this Act in the fund.

19 Section 35. Rules. The Commission may adopt any rules
20 necessary for the implementation of this Act.

21 Section 40. Prohibited acts.

22 (a) A telephone solicitor may not make or cause to be
23 made a telephone sales call to a telephone number if that
24 telephone number appears in the most current quarterly
25 listing published by the Commission.

26 (b) A telephone solicitor or person who obtains consumer
27 information that includes telephone numbers shall exclude the
28 telephone numbers that appear on the Commission's most
29 current listing. This subsection does not apply to a person
30 obtaining consumer information for inclusion in directory
31 assistance and telephone directories sold by telephone

1 companies.

2 (c) A telephone solicitor who fails to comply with any
3 provision of this Section commits a deceptive act that is
4 actionable by the Attorney General under this Act.

5 Section 45. Remedies. In an action under this Act, the
6 Attorney General may obtain any or all of the following:

7 (1) An injunction to enjoin future violations of
8 Section 40 of this Act.

9 (2) A civil penalty of not more than \$10,000 for
10 the first violation and not more than \$25,000 for each
11 subsequent violation. For purposes of this item (2), each
12 telephone call in violation of Section 40 of this Act is
13 considered a separate violation.

14 (3) All money the defendant obtained through
15 violation of Section 40 of this Act.

16 (4) The Attorney General's reasonable costs in the
17 investigation of the deceptive act and maintaining the
18 action.

19 (5) Reasonable attorney's fees.

20 (6) Costs of the action.

21 Section 50. Voiding of contract. In an action under this
22 Act, the court may void or limit the application of contracts
23 or clauses resulting from deceptive acts and order
24 restitution to be paid to an aggrieved consumer.

25 Section 55. Statute of limitations. An action brought
26 under this Act may not be brought more than 2 years after the
27 occurrence of the deceptive act.

28 Section 900. The State Finance Act is amended by adding
29 Section 5.570 as follows:

1 (30 ILCS 105/5.570 new)

2 Sec. 5.570. The Consumer Protection Telephone
3 Solicitation Fund.

4 Section 999. Effective date. This Act takes effect upon
5 becoming law.