

1 AN ACT concerning telephone solicitation.

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 No-Call Database Act.

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

7 (a) "Caller identification service" means a type of
8 telephone service that permits telephone subscribers to see
9 the telephone number of incoming telephone calls;

10 (b) "Residential subscriber" means a person who has
11 subscribed to residential telephone service from a local
12 exchange company or the other persons living or residing with
13 the person;

14 (c) "Telephone solicitation" means any voice
15 communication over a telephone line from a live operator,
16 through the use of ADAD equipment or by other means for the
17 purpose of encouraging the purchase or rental of, or
18 investment in, property, goods, or services.

19 Section 10. Attorney General. The Office of the Attorney
20 General shall receive telemarketing complaints by means of a
21 toll-free telephone number, by a notice in writing, or by
22 electronic means. Complaints against entities that are
23 licensed, certificated, or permitted and whose telemarketing
24 practices are regulated by the same State or federal agency
25 and which agency has rules regulating telemarketing practices
26 shall be forwarded for investigation by the Office of the
27 Attorney General to the agency. All other complaints shall be
28 handled by the Office of the Attorney General.

29 Section 15. Telephone solicitation. Beginning July 1,

1 2002, no person or entity shall make or cause to be made any
2 telephone solicitation to the telephone line of any
3 residential subscriber in this State who has given notice to
4 the Secretary of State, in accordance with rules adopted
5 under Section 20, of the subscriber's objection to receiving
6 telephone solicitations.

7 Section 20. Database.

8 (a) The Secretary of State shall establish and provide
9 for the operation of a database to compile a list of
10 telephone numbers of residential subscribers who object to
11 receiving telephone solicitations. The Secretary of State
12 shall have the database in operation no later than July 1,
13 2002.

14 (b) No later than January 1, 2002, the Secretary of
15 State shall adopt rules governing the establishment of a
16 State no-call database as he or she deems necessary and
17 appropriate to fully implement this Act. The rules shall
18 include those that:

19 (1) Specify the methods by which each residential
20 subscriber may give notice to the Secretary of State or
21 its contractor of his or her objection to receiving the
22 solicitations or revocation of the notice. There shall
23 be no cost to the subscriber for joining the database;

24 (2) Specify the length of time for which a notice
25 of objection shall be effective and the effect of a
26 change of telephone number on the notice;

27 (3) Specify the methods by which the objections and
28 revocations shall be collected and added to the database;

29 (4) Specify the methods by which any person or
30 entity desiring to make telephone solicitations will
31 obtain access to the database as required to avoid
32 calling the telephone numbers of residential subscribers
33 included in the database, including the cost assessed to

1 that person or entity for access to the database; and

2 (5) Specify the other matters relating to the
3 database that the Secretary of State deems desirable.

4 (c) If the Federal Communications Commission establishes
5 a single national database of telephone numbers of
6 subscribers who object to receiving telephone solicitations
7 under Title 47 U.S.C., Section 227(c)(3), the Secretary of
8 State shall include that part of the single national database
9 that relates to Illinois in the database established under
10 this Section.

11 (d) Information contained in the database established
12 under this Section shall be used only for the purpose of
13 compliance with Section 15 and this Section or in a
14 proceeding or action under Section 25. The information is not
15 a public record under the Freedom of Information Act.

16 (e) In April, July, October, and January of each year,
17 the Secretary of State shall obtain subscription listings of
18 consumers in this State who have arranged to be included on
19 any national do-not-call list and add those names to the
20 State do-not-call list.

21 Section 25. Relief.

22 (a) The Attorney General may initiate proceedings
23 relating to a knowing violation or threatened knowing
24 violation of Section 15. The proceedings may include, without
25 limitation, an injunction, a civil penalty up to a maximum of
26 \$5,000 for each knowing violation, and additional relief in
27 any circuit court. The Attorney General may issue
28 investigative demands, issue subpoenas, administer oaths, and
29 conduct hearings in the course of investigating a violation
30 of Section 15.

31 (b) Any person who has received more than one telephone
32 solicitation within any 12-month period by or on behalf of
33 the same person or entity in violation of Section 15 may

1 either:

2 (1) Bring an action to enjoin the violation;

3 (2) Bring an action to recover for actual monetary
4 loss from the knowing violation or to receive up to
5 \$5,000 in damages for each knowing violation, whichever
6 is greater; or

7 (3) Bring both the actions under clauses (1) and
8 (2) of this subsection (b).

9 (c) It is a defense in any action or proceeding brought
10 under this Section that the defendant has established and
11 implemented, with due care, reasonable practices and
12 procedures to effectively prevent telephone solicitations in
13 violation of Section 15.

14 (d) No action or proceeding may be brought under this
15 Section:

16 (1) More than 2 years after the person bringing the
17 action knew or should have known of the occurrence of the
18 alleged violation; or

19 (2) More than 2 years after the termination of any
20 proceeding or action arising out of the same violation or
21 violations by the State of Illinois, whichever is later.

22 (e) A circuit court of this State may exercise personal
23 jurisdiction over any nonresident or his or her executor or
24 administrator as to an action or proceeding authorized by
25 this Section in the manner otherwise provided by law.

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

29 (g) No provider of telephone caller identification
30 service shall be held liable for violations of Section 15
31 committed by other persons or entities.

32 (h) This Section is operative on and after July 1, 2001.

33 Section 30. Advisory group. The Secretary of State and

1 the Attorney General shall establish an advisory group
2 composed of government entities, local telecommunications
3 companies, businesses, and senior citizen and other community
4 advocates to compile and promote a list of educational
5 literature to help consumers understand their options with
6 regard to telephone solicitations. The Secretary of State
7 shall work with local exchange telecommunications companies
8 to disseminate to their residential subscribers information
9 about the availability of and instructions about how to
10 request educational literature from the Secretary of State.
11 The Secretary of State may enter into agreements with those
12 companies for the purpose of dissemination of the educational
13 literature. The Secretary of State shall include on his or
14 her Internet web site information that informs residential
15 subscribers of their rights to be placed on a no-call list
16 and the various methods, including notice to the Secretary of
17 State, of placing their names on this no-call list. The
18 Secretary of State shall have this literature developed for
19 dissemination to the public no later than January 1, 2002.

20 Section 99. Effective date. This Act takes effect upon
21 becoming law.