

1 mercantile purposes and for the benefit or profit of both
2 parties. A pattern of activity does not necessarily mean
3 multiple previous contacts. The established business
4 relationship must exist between the existing customer and the
5 telemarketer directly, and does not extend to any related
6 business entity or other business organization of the
7 telemarketer or related to the telemarketer or the
8 telemarketer's agent including but not limited to a parent
9 corporation, subsidiary partnership, company or other
10 corporation or affiliate.

11 "Existing customer" means an individual who has either:

12 (1) entered into a transaction, agreement,
13 contract, or other such legal state of affairs between a
14 telemarketer and a customer where the payment or exchange
15 of consideration for any goods or services has taken
16 place within the preceding 18 months, or has been
17 previously arranged to take place at a future time; or

18 (2) opened or maintained a credit card account or
19 other such revolving credit or debit account or discount
20 program offered by the telemarketer and has not requested
21 the telemarketer to close such account or terminate such
22 program.

23 "Goods and services" means any goods and services, and
24 includes any real property or any tangible personal property
25 or services of any kind.

26 "Person" means any natural person, corporation, business
27 trust, estate, trust, partnership, limited partnership,
28 limited liability partnership, limited liability company,
29 association, or other business entity and its affiliates or
30 subsidiaries.

31 "Telemarketer" means any person who, for financial profit
32 or commercial purposes in connection with telemarketing,
33 makes telemarketing sales calls to a customer when the
34 customer is in this State or any person who directly controls

1 or supervises the conduct of a telemarketer. As used in this
2 Act, "commercial purposes" means the sale or offer for sale
3 of goods or services.

4 "Telemarketing" means any plan, program, or campaign that
5 is conducted to induce payment or the exchange of any other
6 consideration for any goods or services by use of one or more
7 telephones and that involves more than one telephone call by
8 a telemarketer in which the customer is located within this
9 State at the time of the call. "Telemarketing" does not
10 include the solicitation of sales through any media other
11 than by telephone calls.

12 "Telemarketing sales call" means a telephone call made by
13 a telemarketer to a customer for the purpose of inducing
14 payment or the exchange of any other consideration for any
15 goods or services.

16 "Unsolicited telemarketing sales call" means any
17 telemarketing sales call other than a call made:

18 (i) in response to an express written or verbal
19 request of the customer called; or

20 (ii) in connection with an established business
21 relationship, which has not been terminated by either
22 party and which is directly related to the nature of the
23 established business relationship; or

24 (iii) to an existing customer, unless the customer
25 has stated to the telemarketer that the customer no
26 longer wishes to receive the telemarketing sales calls of
27 the telemarketer or unless the nature of the call is
28 unrelated to the established business relationship with
29 the existing customer; or

30 (iv) in which the sale of goods and services is not
31 completed, and payment or authorization of payment is not
32 required, until after a face-to-face sales presentation
33 by the telemarketer or a meeting between the telemarketer
34 and customer.

1 Section 10. Registry; establishment and maintenance. The
2 Commission shall establish and maintain a no telemarketing
3 sales calls statewide registry which shall contain a list of
4 the telephone numbers of customers who do not wish to receive
5 unsolicited telemarketing sales calls. The Commission may
6 contract with a private vendor to establish and maintain the
7 registry if: (i) the private vendor has maintained national
8 no telemarketing sales calls registries for more than 2
9 years; and (ii) the contract requires the vendor to provide
10 the no telemarketing sales calls registry in a printed hard
11 copy format, electronically, and in any other format
12 prescribed by the Commission.

13 Section 12. Complaints. The Commission shall receive
14 telephone solicitation complaints from customers who have
15 registered with the Commission to object to such calls.
16 Complaints shall be taken by any means deemed appropriate by
17 the Commission. Complaints against telemarketers that are
18 licensed, certificated, or permitted by a State or federal
19 agency shall be forwarded for investigation by the Commission
20 to the appropriate agency provided that the respective agency
21 has the power to investigate such matters. All other
22 complaints shall be investigated by the Commission. The
23 standards for such referrals and investigations shall be
24 determined by rules established by the Commission.

25 Section 15. Prohibited calls. Beginning January 1, 2002,
26 no telemarketer may make or cause to be made any unsolicited
27 telemarketing sales call to any customer more than 45 days
28 after the customer's telephone number or numbers first appear
29 on the no telemarketing sales calls statewide registry made
30 available by the Commission under this Act.

31 Section 20. Registry; inclusion; removal; updates.

1 (a) The Commission shall provide notice to customers of
2 the establishment of the no telemarketing sales calls
3 statewide registry. Any customer who wishes to be included in
4 the registry shall notify the Commission by calling a
5 toll-free number provided by the Commission, or in any other
6 manner and at times prescribed by the Commission which may
7 include notification via the Internet. A customer in the
8 registry shall be deleted from the registry upon the
9 customer's written request. The Commission shall update the
10 registry not less than quarterly and shall make the registry
11 available to telemarketers in a printed hard copy format,
12 electronically, and in any other format prescribed by the
13 Commission for a fee as the Commission shall prescribe
14 pursuant to subsection (b).

15 (b) The fee for telemarketers obtaining the registry
16 shall be determined by rules established by the Commission,
17 not to exceed \$200 annually. All copies requested in paper
18 form shall be assessed a per page fee to be determined by
19 rules established by the Commission.

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

26 (d) Information contained in the registry established
27 under this Section shall be confidential and afforded
28 reasonable privacy protection except as necessary for the
29 purpose of compliance with Sections 15 and 22 and this
30 Section or in a proceeding or action under Section 30. The
31 information is not a public record under the Freedom of
32 Information Act.

33 Section 22. Enrollment.

1 (a) There shall be no cost to the customer for joining
2 the registry.

3 (b) Enrollment in the registry shall be effective from
4 the start of the quarter following the date of enrollment for
5 a term of 5 years or until the customer disconnects or
6 changes his or her telephone number, whichever occurs first.
7 The customer shall be responsible for notifying the
8 Commission of any changes in his or her telephone number. The
9 Commission shall use its best efforts to notify enrolled
10 customers prior to the end of the 5-year enrollment term of
11 the option to re-enroll. Those customers who do not
12 re-enroll prior to the end of the 5-year term shall be
13 removed from the registry.

14 Section 23. Public Notification. The Commission shall
15 work with local exchange telecommunications companies to
16 disseminate to their customers information about the
17 availability of and instructions about how to request
18 educational literature from the Commission. The Commission
19 may enter into agreements with those companies for the
20 purpose of dissemination of the educational literature.
21 Telecommunications companies shall be required to disseminate
22 the respective literature at least once per year in the form
23 of both a bill message and a notice in the information
24 section of all telephone directories circulated to customers.
25 The Commission shall include on its Internet web site
26 information that informs customers of their rights to be
27 placed on the registry and the various methods, including
28 notice to the Commission, of placing their names on this
29 registry. The Commission shall have this literature developed
30 for dissemination to the public no later than October 1,
31 2001.

32 Section 25. Rules. The Commission shall adopt rules to

1 administer this Act.

2 Section 30. Violations; relief.

3 (a) If it is determined after a hearing that a
4 telemarketer has violated one or more provisions of this
5 Act, the Commission may assess a penalty not to exceed
6 \$2,500 for each violation.

7 (b) A proceeding conducted under subsection (a) is
8 subject to the Illinois Administrative Procedure Act.

9 (c) Nothing in this Section may be construed to restrict
10 any right which any person may have under any other law or at
11 common law.

12 (d) No action or proceeding may be brought under this
13 Section:

14 (1) More than one year after the person bringing
15 the action knew or should have known of the occurrence of
16 the alleged violation; or

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

20 (e) The remedies, duties, prohibition, and penalties of
21 this Act are not exclusive and are in addition to all other
22 causes of action, remedies, and penalties provided by law.

23 (f) There is created in the State treasury a special
24 fund to be known as the No Telemarketing Sales Calls
25 Statewide Registry Fund. All fees and fines collected in the
26 administration and enforcement of this Act shall be deposited
27 into the Fund. Moneys in the Fund shall, subject to
28 appropriation, be used by the Commission for implementation,
29 administration, and enforcement of this Act.

30 Section 35. Exemption. A telemarketer may not be held
31 liable for violating this Act if:

32 (a) the telemarketer has obtained copies of the no

1 telemarketing sales calls statewide registry and each updated
2 registry and has established and implemented written policies
3 and procedures related to the requirements of this Act;

4 (b) the telemarketer has trained his or her personnel in
5 the requirements of this Act;

6 (c) the telemarketer maintains records demonstrating
7 compliance with subsections (a) and (b) of this Section and
8 the requirements of this Act; and

9 (d) any subsequent unsolicited telemarketing sales call
10 is the result of error.

11 Section 105. The State Finance Act is amended by adding
12 Section 5.545 as follows:

13 (30 ILCS 105/5.545 new)

14 Sec. 5.545. No Telemarketing Sales Call Statewide
15 Registry Fund.".