

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, but does not
19 include communications:

20 (1) By or on behalf of any person or entity with
21 whom a residential subscriber has a current business or
22 personal relationship;

23 (2) By or on behalf of an entity organized under
24 Section 501(c)(3) of the United States Internal Revenue
25 Code, while the entity is engaged in fund raising to
26 support the charitable purpose for which the entity was
27 established provided that a bona fide member of the
28 exempt organization makes the voice communication;

29 (3) By or on behalf of any entity over which a
30 federal agency has regulatory authority to the extent
31 that:

1 (A) Subject to the authority, the entity is
2 required to maintain a license, permit, or
3 certificate to sell or provide the merchandise being
4 offered through telemarketing; and

5 (B) The entity is required by law or rule to
6 develop and maintain a no-call list.

7 Section 10. Attorney General. The Office of the Attorney
8 General shall receive telemarketing complaints by means of a
9 toll-free telephone number, by a notice in writing, or by
10 electronic means. Complaints against entities that are
11 licensed, certificated, or permitted and whose telemarketing
12 practices are regulated by the same State or federal agency
13 and which agency has rules regulating telemarketing practices
14 shall be forwarded for investigation by the Office of the
15 Attorney General to the agency. All other complaints shall be
16 handled by the Office of the Attorney General.

17 Section 15. Telephone solicitation. Beginning July 1,
18 2002, no person or entity shall make or cause to be made any
19 telephone solicitation to the telephone line of any
20 residential subscriber in this State who has given notice to
21 the Secretary of State, in accordance with rules adopted
22 under Section 20, of the subscriber's objection to receiving
23 telephone solicitations.

24 Section 20. Database.

25 (a) The Secretary of State shall establish and provide
26 for the operation of a database to compile a list of
27 telephone numbers of residential subscribers who object to
28 receiving telephone solicitations. The Secretary of State
29 shall have the database in operation no later than July 1,
30 2002.

31 (b) No later than January 1, 2002, the Secretary of

1 State shall adopt rules governing the establishment of a
2 State no-call database as he or she deems necessary and
3 appropriate to fully implement this Act. The rules shall
4 include those that:

5 (1) Specify the methods by which each residential
6 subscriber may give notice to the Secretary of State or
7 its contractor of his or her objection to receiving the
8 solicitations or revocation of the notice. There shall
9 be no cost to the subscriber for joining the database;

10 (2) Specify the length of time for which a notice
11 of objection shall be effective and the effect of a
12 change of telephone number on the notice;

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

15 (4) Specify the methods by which any person or
16 entity desiring to make telephone solicitations will
17 obtain access to the database as required to avoid
18 calling the telephone numbers of residential subscribers
19 included in the database, including the cost assessed to
20 that person or entity for access to the database; and

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

23 (c) If the Federal Communications Commission establishes
24 a single national database of telephone numbers of
25 subscribers who object to receiving telephone solicitations
26 under Title 47 U.S.C., Section 227(c)(3), the Secretary of
27 State shall include that part of the single national database
28 that relates to Illinois in the database established under
29 this Section.

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

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

6 Section 25. Relief.

7 (a) The Attorney General may initiate proceedings
8 relating to a knowing violation or threatened knowing
9 violation of Section 15. The proceedings may include, without
10 limitation, an injunction, a civil penalty up to a maximum of
11 \$5,000 for each knowing violation, and additional relief in
12 any circuit court. The Attorney General may issue
13 investigative demands, issue subpoenas, administer oaths, and
14 conduct hearings in the course of investigating a violation
15 of Section 15.

16 (b) Any person who has received more than one telephone
17 solicitation within any 12-month period by or on behalf of
18 the same person or entity in violation of Section 15 may
19 either:

- 20 (1) Bring an action to enjoin the violation;
- 21 (2) Bring an action to recover for actual monetary
22 loss from the knowing violation or to receive up to
23 \$5,000 in damages for each knowing violation, whichever
24 is greater; or
- 25 (3) Bring both the actions under clauses (1) and
26 (2) of this subsection (b).

27 (c) It is a defense in any action or proceeding brought
28 under this Section that the defendant has established and
29 implemented, with due care, reasonable practices and
30 procedures to effectively prevent telephone solicitations in
31 violation of Section 15.

32 (d) No action or proceeding may be brought under this
33 Section:

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

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

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

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

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

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

18 Section 30. Advisory group. The Secretary of State and
19 the Attorney General shall establish an advisory group
20 composed of government entities, local telecommunications
21 companies, businesses, and senior citizen and other community
22 advocates to compile and promote a list of educational
23 literature to help consumers understand their options with
24 regard to telephone solicitations. The Secretary of State
25 shall work with local exchange telecommunications companies
26 to disseminate to their residential subscribers information
27 about the availability of and instructions about how to
28 request educational literature from the Secretary of State.
29 The Secretary of State may enter into agreements with those
30 companies for the purpose of dissemination of the educational
31 literature. The Secretary of State shall include on his or
32 her Internet web site information that informs residential
33 subscribers of their rights to be placed on a no-call list

1 and the various methods, including notice to the Secretary of
2 State, of placing their names on this no-call list. The
3 Secretary of State shall have this literature developed for
4 dissemination to the public no later than January 1, 2002.

5 Section 99. Effective date. This Act takes effect upon
6 becoming law.