

Committee on Commerce and Tourism

CS/CS/HB 761 — Telephone Solicitation

by Commerce Committee; Civil Justice Subcommittee; and Rep. Fabricio and others (CS/CS/SB 1308 by Rules Committee; Commerce and Tourism Committee; and Senators Yarborough and Rodriguez)

The bill amends s. 501.059, F.S., relating to telephone solicitation to:

- Clarify notice requirements prior to obtaining consent for telephone calls, text messages, or the transmission of prerecorded voicemails, including specifying that the requirements apply to use of an automated system for the selection *and* dialing of telephone numbers.
- Allow the signature needed to establish prior written consent for telephonic sales calls to include an electronic or digital signature, as provided under current law, *or* an act that demonstrates express consent, which includes but is not limited to checking a box indicating consent or responding affirmatively to receiving text messages, to an advertising campaign, or to an e-mail solicitation.
- Provide that a person may not make or knowingly allow to be made *an unsolicited* telephonic sales call if such call involves an automated system for the selection *and* dialing of telephone numbers or the playing of a recorded message when a connection is completed to a number called without the prior express written consent of the called party.

The bill provides that prior to commencement of any action for damages for text message solicitations, the called party must reply “STOP” to the number from which the called party received the text, and within 15 days after that request, the solicitor must cease sending text messages. An action for damages may be brought only if the solicitor continues to text 15 days after the request to stop.

The bill specifies that amendments made by this act apply to any suit filed on or after the effective date of the bill, and to any putative class action not certified on or before the effective date.

If approved by the Governor, or allowed to become law without the Governor’s signature, these provisions take effect upon becoming law.

Vote: Senate 29-10; House 99-14