

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Commerce Committee
 2 Representative Beltran offered the following:

Amendment (with title amendment)

5 Between lines 110 and 111, insert:

6 Section 2. Subsection (6) of section 501.616, Florida
 7 Statutes, is amended to read:

8 501.616 Unlawful acts and practices.—

9 (6) A commercial telephone seller or salesperson may not
 10 make any of the following types of phone calls, including calls
 11 made through automated dialing or recorded messages:

12 (a) A commercial telephone solicitation phone call before
 13 8 a.m. or after 8 ~~9~~ p.m. local time in ~~at~~ the called person's
 14 time zone location.

15 (b) More than three commercial telephone solicitation
 16 phone calls from any number to a person over a 24-hour period on

Amendment No. 1

17 the same subject matter or issue, regardless of the phone number
18 used to make the call.

19 Section 3. For the purpose of incorporating the amendment
20 made by this act to section 501.616, Florida Statutes, in a
21 reference thereto, section 501.604, Florida Statutes, is
22 reenacted to read:

23 501.604 Exemptions.—The provisions of this part, except
24 ss. 501.608 and 501.616(6) and (7), do not apply to:

25 (1) A person engaging in commercial telephone solicitation
26 where the solicitation is an isolated transaction and not done
27 in the course of a pattern of repeated transactions of like
28 nature.

29 (2) A person soliciting for religious, charitable,
30 political, or educational purposes. A person soliciting for
31 other noncommercial purposes is exempt only if that person is
32 soliciting for a nonprofit corporation and if that corporation
33 is properly registered as such with the Secretary of State and
34 is included within the exemption of s. 501(c)(3) or (6) of the
35 Internal Revenue Code.

36 (3) A person who does not make the major sales
37 presentation during the telephone solicitation and who does not
38 intend to, and does not actually, complete or obtain provisional
39 acceptance of a sale during the telephone solicitation, but who
40 makes the major sales presentation and completes the sale at a
41 later face-to-face meeting between the seller and the

117001 - h1307-line110a1.docx

Published On: 4/18/2021 7:01:32 PM

Amendment No. 1

42 prospective purchaser in accordance with the home solicitation
43 provisions in this chapter. However, if a seller, directly
44 following a telephone solicitation, causes an individual whose
45 primary purpose it is to go to the prospective purchaser to
46 collect the payment or deliver any item purchased, this
47 exemption does not apply.

48 (4) A licensed securities, commodities, or investment
49 broker, dealer, or investment adviser, when soliciting within
50 the scope of his or her license, or a licensed associated person
51 of a securities, commodities, or investment broker, dealer, or
52 investment adviser, when soliciting within the scope of his or
53 her license. As used in this section, "licensed securities,
54 commodities, or investment broker, dealer, or investment
55 adviser" means a person subject to license or registration as
56 such by the Securities and Exchange Commission, by the Financial
57 Industry Regulatory Authority or other self-regulatory
58 organization as defined by the Securities Exchange Act of 1934,
59 15 U.S.C. s. 781, or by an official or agency of this state or
60 of any state of the United States. As used in this section,
61 "licensed associated person of a securities, commodities, or
62 investment broker, dealer, or investment adviser" means an
63 associated person registered or licensed by the Financial
64 Industry Regulatory Authority or other self-regulatory
65 organization as defined by the Securities Exchange Act of 1934,

Amendment No. 1

66 15 U.S.C. s. 781, or by an official or agency of this state or
67 of any state of the United States.

68 (5) A person primarily soliciting the sale of a newspaper
69 of general circulation.

70 (6) A book, video, or record club or contractual plan or
71 arrangement:

72 (a) Under which the seller provides the consumer with a
73 form which the consumer may use to instruct the seller not to
74 ship the offered merchandise.

75 (b) Which is regulated by the Federal Trade Commission
76 trade regulation concerning "use of negative option plans by
77 sellers in commerce."

78 (c) Which provides for the sale of books, records, or
79 videos which are not covered under paragraph (a) or paragraph
80 (b), including continuity plans, subscription arrangements,
81 standing order arrangements, supplements, and series
82 arrangements under which the seller periodically ships
83 merchandise to a consumer who has consented in advance to
84 receive such merchandise on a periodic basis.

85 (7) A supervised financial institution or parent,
86 subsidiary, or affiliate thereof operating within the scope of
87 supervised activity. As used in this section, "supervised
88 financial institution" means a commercial bank, trust company,
89 savings and loan association, mutual savings bank, credit union,
90 industrial loan company, consumer finance lender, commercial

117001 - h1307-line110a1.docx

Published On: 4/18/2021 7:01:32 PM

Amendment No. 1

91 finance lender, or insurer, provided that the institution is
92 subject to supervision by an official or agency of this state,
93 of any state, or of the United States. For the purposes of this
94 exemption, "affiliate" means a person who directly, or
95 indirectly through one or more intermediaries, controls or is
96 controlled by, or is under common control with, a supervised
97 financial institution.

98 (8) Any licensed insurance broker, agent, customer
99 representative, or solicitor when soliciting within the scope of
100 his or her license. As used in this section, "licensed insurance
101 broker, agent, customer representative, or solicitor" means any
102 insurance broker, agent, customer representative, or solicitor
103 licensed by an official or agency of this state or of any state
104 of the United States.

105 (9) A person soliciting the sale of services provided by a
106 cable television system operating under authority of a franchise
107 or permit.

108 (10) A business-to-business sale where:

109 (a) The commercial telephone seller has been lawfully
110 operating continuously for at least 3 years under the same
111 business name and has at least 50 percent of its dollar volume
112 consisting of repeat sales to existing businesses;

113 (b) The purchaser business intends to resell or offer for
114 purposes of advertisement or as a promotional item the property
115 or goods purchased; or

117001 - h1307-line110a1.docx

Published On: 4/18/2021 7:01:32 PM

Amendment No. 1

116 (c) The purchaser business intends to use the property or
117 goods purchased in a recycling, reuse, remanufacturing, or
118 manufacturing process.

119 (11) A person who solicits sales by periodically
120 publishing and delivering a catalog of the seller's merchandise
121 to prospective purchasers, if the catalog:

122 (a) Contains a written description or illustration of each
123 item offered for sale.

124 (b) Includes the business address or home office address
125 of the seller.

126 (c) Includes at least 20 pages of written material and
127 illustrations and is distributed in more than one state.

128 (d) Has an annual circulation by mailing of not less than
129 150,000.

130 (12) A person who solicits contracts for the maintenance
131 or repair of goods previously purchased from the person making
132 the solicitation or on whose behalf the solicitation is made.

133 (13) A commercial telephone seller licensed pursuant to
134 chapter 516 or part III of chapter 520. For purposes of this
135 exemption, the seller must solicit to sell a consumer good or
136 service within the scope of his or her license and the completed
137 transaction must be subject to the provisions of chapter 516 or
138 part III of chapter 520.

139 (14) A telephone company subject to chapter 364, or
140 affiliate thereof or its agents, or a telecommunications

117001 - h1307-line110a1.docx

Published On: 4/18/2021 7:01:32 PM

Amendment No. 1

141 business that is regulated by the Florida Public Service
142 Commission, or a Federal Communications Commission licensed
143 cellular telephone company or other bona fide radio
144 telecommunication services provider. For the purposes of this
145 exemption, "affiliate" means a person who directly, or
146 indirectly through one or more intermediaries, controls or is
147 controlled by, or is under common control with, a telephone
148 company subject to chapter 364.

149 (15) A person who is licensed pursuant to chapter 497 and
150 who is soliciting within the scope of the license.

151 (16) An issuer or a subsidiary of an issuer that has a
152 class of securities which is subject to s. 12 of the Securities
153 Exchange Act of 1934, 15 U.S.C. s. 781, and which is either
154 registered or exempt from registration under paragraph (A),
155 paragraph (B), paragraph (C), paragraph (E), paragraph (F),
156 paragraph (G), or paragraph (H) of subsection (g)(2) of that
157 section.

158 (17) A business soliciting exclusively the sale of
159 telephone answering services provided that the telephone
160 answering services will be supplied by the solicitor.

161 (18) A person soliciting a transaction regulated by the
162 Commodity Futures Trading Commission if the person is registered
163 or temporarily licensed for this activity with the Commodity
164 Futures Trading Commission under the Commodity Exchange Act, 7

Amendment No. 1

165 U.S.C. ss. 1 et seq., and the registration or license has not
166 expired or been suspended or revoked.

167 (19) A person soliciting the sale of food or produce as
168 defined in chapter 500 or chapter 504 if the solicitation
169 neither intends to result in, or actually results in, a sale
170 which costs the purchaser in excess of \$500.

171 (20) A person who is registered pursuant to part XI of
172 chapter 559 and who is soliciting within the scope of the
173 registration.

174 (21) A person soliciting business from prospective
175 consumers who have an existing business relationship with or who
176 have previously purchased from the business enterprise for which
177 the solicitor is calling, if the solicitor is operating under
178 the same exact business name.

179 (22) A person who has been operating, for at least 1 year,
180 a retail business establishment under the same name as that used
181 in connection with telemarketing, and both of the following
182 occur on a continuing basis:

183 (a) Either products are displayed and offered for sale or
184 services are offered for sale and provided at the business
185 establishment.

186 (b) A majority of the seller's business involves the buyer
187 obtaining such products or services at the seller's location.

Amendment No. 1

188 (23) A person who is a registered developer or exchange
189 company pursuant to chapter 721 and who is soliciting within the
190 scope of the chapter.

191 (24) Any person who has been lawfully providing
192 telemarketing sales services continuously for at least 5 years
193 under the same ownership and control and who derives 75 percent
194 of its gross telemarketing sales revenues from contracts with
195 persons exempted in this section.

196 (25) A person licensed pursuant to chapter 475 and who is
197 soliciting within the scope of the chapter.

198 (26) A publisher, or an agent of a publisher by written
199 agreement, who solicits the sale of his or her periodical or
200 magazine of general, paid circulation. The term "paid
201 circulation" shall not include magazines that are only
202 circulated as part of a membership package or that are given as
203 a free gift or prize from the publisher or agent of the
204 publisher by written agreement.

205 (27) A person who is a licensed operator or an
206 identification cardholder as defined in chapter 482, and who is
207 soliciting within the scope of the chapter.

208 (28) A licensee, or an affiliate of a licensee, regulated
209 under chapter 560, the Money Transmitters' Code, for foreign
210 currency exchange services.

211 Section 4. For the purpose of incorporating the amendment
212 made by this act to section 501.616, Florida Statutes, in a

Amendment No. 1

213 reference thereto, paragraph (c) of subsection (1) of section
214 648.44, Florida Statutes, is reenacted to read:

215 648.44 Prohibitions; penalty.—

216 (1) A bail bond agent or temporary bail bond agent may
217 not:

218 (c) Initiate in-person or telephone solicitation after
219 9:00 p.m. or before 8:00 a.m., in the case of domestic violence
220 cases, at the residence of the detainee or the detainee's
221 family. Any solicitation not prohibited by this chapter must
222 comply with the telephone solicitation requirements in ss.
223 501.059(2) and (4), 501.613, and 501.616(6).

224

225 -----

226 **T I T L E A M E N D M E N T**

227 Remove line 13 and insert:

228 providing construction; amending s. 501.616, F.S.;

229 prohibiting a commercial telephone seller or

230 salesperson from using automated dialing or recorded

231 messages to make certain commercial telephone

232 solicitation phone calls; revising the timeframe

233 during which a commercial telephone seller or

234 salesperson may make commercial solicitation phone

235 calls; prohibiting commercial telephone sellers or

236 salespersons from making a specified number of

237 commercial telephone solicitation phone calls to a

117001 - h1307-line110a1.docx

Published On: 4/18/2021 7:01:32 PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 1307 (2021)

Amendment No. 1

238 | person over a specified timeframe; reenacting s.
239 | 501.604, F.S., relating to exemptions to the Florida
240 | Telemarketing Act, to incorporate the amendment made
241 | to s. 501.616, F.S., in a reference thereto;
242 | reenacting s. 648.44(1)(c), F.S., relating to
243 | prohibitions regarding bail bond agent telephone
244 | solicitations, to incorporate the amendment made to s.
245 | 501.616, F.S., in a reference thereto; providing an
246 | effective date.