

1 A bill to be entitled
 2 An act relating to telephone solicitation; amending s.
 3 501.059, F.S.; revising definitions; prohibiting
 4 certain telephonic sales calls; providing conditions
 5 under which civil actions may not be brought for
 6 specified violations; providing an effective date.

7
 8 Be It Enacted by the Legislature of the State of Florida:

9
 10 Section 1. Paragraphs (g) and (h) of subsection (1) and
 11 paragraph (a) of subsection (8) of section 501.059, Florida
 12 Statutes, are amended, and paragraph (c) is added to subsection
 13 (10) of that section, to read:

14 501.059 Telephone solicitation.—

15 (1) As used in this section, the term:

16 (g) "Prior express written consent" means a written
 17 agreement that:

- 18 1. Bears the signature of the called party;
 19 2. Clearly authorizes the person making or allowing the
 20 placement of a telephonic sales call by telephone call, text
 21 message, or voicemail transmission to deliver or cause to be
 22 delivered to the called party a telephonic sales call using an
 23 automated system for the selection and ~~or~~ dialing of telephone
 24 numbers, the playing of a recorded message when a connection is
 25 completed to a number called, or the transmission of a

26 | prerecorded voicemail;

27 | 3. Includes the telephone number to which the called party
 28 | ~~signatory~~ authorizes a telephonic sales call to be delivered;
 29 | and

30 | 4. Includes a clear and conspicuous disclosure informing
 31 | the called party that:

32 | a. By executing the agreement, the called party authorizes
 33 | the person making or allowing ~~the placement of~~ a telephonic
 34 | sales call to be made by telephone call, text message, or
 35 | voicemail transmission to deliver or cause to be delivered ~~a~~
 36 | ~~telephonic sales call~~ to the called party a telephonic sales
 37 | call using an automated system for the selection and ~~or~~ dialing
 38 | of telephone numbers, if applicable, ~~or~~ the playing of a
 39 | recorded message when a connection is completed to a number
 40 | called, or the transmission of a prerecorded voicemail; and

41 | b. He or she is not required to directly or indirectly
 42 | sign the written agreement or to agree to enter into such an
 43 | agreement as a condition of purchasing any property, goods, or
 44 | services.

45 | (h) "Signature" includes:

46 | 1. An electronic or digital signature if, ~~to~~ the extent
 47 | ~~that such~~ form of signature is recognized as a valid signature
 48 | under applicable federal law or state contract law; and

49 | 2. An act that demonstrates express consent, including,
 50 | but not limited to, checking a box indicating consent or

51 responding affirmatively to receiving text messages, to an
 52 advertising campaign, or to an e-mail solicitation.

53 (8) (a) A person may not make or knowingly allow to be made
 54 an unsolicited a telephonic sales call ~~to be made~~ if such call
 55 involves an automated system for the selection or dialing of
 56 telephone numbers or the playing of a recorded message when a
 57 connection is completed to a number called without the prior
 58 express written consent of the called party.

59 (10)

60 (c) Notwithstanding any other provision of this section,
 61 no action shall lie for a violation of subsection (8) for any
 62 communication made within 30 days of:

63 1. The called party or consumer communicating with a
 64 telephone solicitor or other person, orally or by text message,
 65 that such called party or consumer does not wish to receive any
 66 communications from that telephone solicitor or person or the
 67 seller or organization represented by that telephone solicitor
 68 or person.

69 2. The called party or consumer effectively withdrawing a
 70 previously given valid consent.

71 Section 2. This act shall take effect upon becoming a law.