

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 be brought for text
 6 message solicitations; 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; or

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 and ~~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) Before the commencement of any action for damages
61 under this section for text message solicitations, the called
62 party must notify the telephone solicitor that the called party
63 does not wish to receive text messages from the telephone
64 solicitor by replying "STOP" to the number from which the called
65 party received text messages from the telephone solicitor.
66 Within 15 days after receipt of such notice, the telephone
67 solicitor shall cease sending text message solicitations to the
68 called party and may not send text messages to the called party
69 thereafter, except that the telephone solicitor may send the
70 called party a text message to confirm receipt of the notice.
71 The called party may bring an action under this section only if
72 the called party does not consent to receive text messages from
73 the telephone solicitor and the telephone solicitor continues to
74 send text messages to the called party 15 days after the called
75 party provided notice to the telephone solicitor to cease such

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76 | text messages.

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