

1 A bill to be entitled
 2 An act relating to telephone solicitation; amending s.
 3 501.059, F.S.; revising the definition of the terms
 4 "telephone solicitor" and "telephonic sales call";
 5 revising the conditions for awarding attorney fees in
 6 civil actions relating to telephone solicitation;
 7 making technical changes; providing construction and
 8 retroactive application; reenacting s. 517.0615(2)(c),
 9 F.S., relating to solicitations of interest, to
 10 incorporate the amendment made to s. 501.059, F.S., in
 11 a reference thereto; providing an effective date.

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 13 Be It Enacted by the Legislature of the State of Florida:

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 15 **Section 1. Paragraphs (i) and (j) of subsection (1) and**
 16 **paragraphs (a), (d), and (e) of subsection (11) of section**
 17 **501.059, Florida Statutes, are amended to read:**

18 501.059 Telephone solicitation.—
 19 (1) As used in this section, the term:
 20 (i) "Telephone solicitor" means a natural person, firm,
 21 organization, partnership, association, or corporation, or a
 22 subsidiary or affiliate thereof, doing business in this state,
 23 who makes or causes to be made a telephonic sales call,
 24 including, but not limited to, calls made by use of automated
 25 dialing or recorded message devices. The term does not include a

26 tax-exempt nonprofit organization or a person or an organization
27 acting on its behalf.

28 (j) "Telephonic sales call" means a telephone call, text
29 message, or voicemail transmission to a consumer for the purpose
30 of soliciting a sale of any consumer goods or services,
31 soliciting an extension of credit for consumer goods or
32 services, or obtaining information that will or may be used for
33 the direct solicitation of a sale of consumer goods or services
34 or an extension of credit for such purposes. A phone call, text
35 message, or voicemail transmission is not considered a
36 telephonic sales call if it is made by a tax-exempt nonprofit
37 organization for a religious, charitable, political, or
38 educational purpose.

39 (11) (a) In a any civil action ~~alleging litigation~~
40 ~~resulting from a transaction involving~~ a violation of this
41 section, the prevailing party, after judgment in the trial court
42 and exhaustion of all appeals, is entitled to if any, shall
43 ~~receive his or her~~ reasonable attorney fees and costs from the
44 nonprevailing party.

45 (d) An ~~Any~~ award of attorney fees or costs becomes ~~shall~~
46 ~~become~~ a part of the judgment and is subject to execution ~~as the~~
47 ~~law allows.~~

48 (e) In a any civil action ~~litigation~~ initiated by the
49 department or the Department of Legal Affairs, the court may
50 award to the prevailing party reasonable attorney fees and costs

51 if the court finds that there was a complete absence of a
52 justiciable issue of either law or fact raised by the losing
53 party or if the court finds bad faith on the part of the losing
54 party.

55 **Section 2.** The amendments made by this act to s. 501.059,
56 Florida Statutes, are remedial in nature and apply
57 retroactively.

58 **Section 3.** For the purpose of incorporating the amendment
59 made by this act to section 501.059, Florida Statutes, in a
60 reference thereto, paragraph (c) of subsection (2) of section
61 517.0615, Florida Statutes, is reenacted to read:

62 517.0615 Solicitations of interest.—

63 (2) Before any offers or sales are made in connection with
64 an offering, communications by an issuer or any person
65 authorized to act on behalf of the issuer are not deemed to
66 constitute general solicitation or general advertising if the
67 communication is solely for the purpose of determining whether
68 there is any interest in a contemplated securities offering.
69 Requirements imposed under this chapter on written or oral
70 statements made in the course of such communication may be
71 enforced as provided in this chapter. The solicitation or
72 acceptance of money or other consideration or of any commitment,
73 binding or otherwise, from any person is prohibited.

74 (c) A communication in accordance with this subsection is
75 not subject to s. 501.059, regarding telephone solicitations.

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Section 4. This act shall take effect upon becoming a law.