

5319

2013-2014 Regular Sessions

I N   A S S E M B L Y

February 22, 2013

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Introduced by M. of A. GALEF -- read once and referred to the Committee  
on Consumer Affairs and Protection

AN ACT to amend the general business law, the public service law and the  
state finance law, in relation to establishing the no political solici-  
tation call statewide registry regarding political calls

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-  
BLY, DO ENACT AS FOLLOWS:

1     Section 1. The general business law is amended by adding a new section  
2     399-zzzz to read as follows:  
3     S 399-ZZZZ. POLITICAL SOLICITATION; ESTABLISHMENT OF NO POLITICAL  
4     SOLICITATION CALL STATEWIDE REGISTRY. 1. AS USED IN THIS SECTION, THE  
5     FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:  
6     A. "BOARD" SHALL MEAN THE CONSUMER PROTECTION BOARD;  
7     B. "DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF THE CONSUMER PROTECTION  
8     BOARD;  
9     C. "PERSON" MEANS ANY NATURAL PERSON, ASSOCIATION, PARTNERSHIP, FIRM,  
10    CORPORATION AND ITS AFFILIATES OR SUBSIDIARIES OR OTHER BUSINESS ENTITY;  
11    AND  
12    D. "UNSOLICITED POLITICAL CALL" MEANS ANY TELEPHONE CALL OTHER THAN A  
13    CALL MADE:  
14    (I) IN RESPONSE TO AN EXPRESS WRITTEN OR VERBAL REQUEST OF THE PERSON  
15    CALLED; OR  
16    (II) IN CONNECTION WITH AN ESTABLISHED POLITICAL RELATIONSHIP, WHICH  
17    HAS NOT BEEN TERMINATED BY EITHER PARTY.  
18    2. THE BOARD SHALL ESTABLISH AND MAINTAIN A NO POLITICAL SOLICITATION  
19    CALL STATEWIDE REGISTRY WHICH SHALL CONTAIN A LIST OF PERSONS WHO DO NOT  
20    WISH TO RECEIVE AN UNSOLICITED POLITICAL CALL. THE BOARD MAY CONTRACT  
21    WITH A PRIVATE VENDOR TO ESTABLISH AND MAINTAIN SUCH REGISTRY, PROVIDED  
22    THE PRIVATE VENDOR HAS MAINTAINED NATIONAL NO POLITICAL SOLICITATION  
23    CALL REGISTRIES FOR MORE THAN TWO YEARS, AND THE CONTRACT REQUIRES THE  
24    VENDOR TO PROVIDE THE NO POLITICAL SOLICITATION CALL STATEWIDE REGISTRY

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

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1 IN A PRINTED HARD COPY FORMAT AND IN ANY OTHER FORMAT AS PRESCRIBED BY  
2 THE BOARD.

3 3. NO CALLERS MAY MAKE OR CAUSE TO BE MADE ANY UNSOLICITED POLITICAL  
4 CALL TO ANY PERSON MORE THAN THIRTY DAYS AFTER THE PERSON'S NAME AND  
5 TELEPHONE NUMBER OR NUMBERS APPEAR ON THE THEN CURRENT QUARTERLY NO  
6 POLITICAL SOLICITATION CALL STATEWIDE REGISTRY MADE AVAILABLE BY THE  
7 BOARD PURSUANT TO SUBDIVISION TWO OF THIS SECTION.

8 4. A. THE BOARD SHALL PROVIDE NOTICE OF THE ESTABLISHMENT OF THE NO  
9 POLITICAL SOLICITATION CALL STATEWIDE REGISTRY. ANY PERSON WHO WISHES TO  
10 BE INCLUDED ON SUCH LISTING SHALL NOTIFY THE BOARD BY CALLING A  
11 TOLL-FREE NUMBER PROVIDED BY THE BOARD, OR IN ANY OTHER SUCH MANNER AND  
12 AT SUCH TIMES AS THE BOARD MAY PRESCRIBE WHICH MAY INCLUDE NOTIFICATION  
13 VIA THE INTERNET. A PERSON ON SUCH REGISTRY SHALL BE DELETED FROM SUCH  
14 REGISTRY UPON THE PERSON'S WRITTEN REQUEST. THE BOARD SHALL UPDATE SUCH  
15 REGISTRY NOT LESS THAN QUARTERLY AND SHALL MAKE SUCH REGISTRY AVAILABLE  
16 TO POLITICAL CALLERS FOR A FEE AS THE BOARD SHALL PRESCRIBE.

17 B. ANY COMPANY THAT PROVIDES LOCAL TELEPHONE DIRECTORIES TO PERSONS OF  
18 THIS STATE SHALL INFORM ITS CUSTOMERS OF THE PROVISIONS OF THIS SECTION  
19 BY MEANS OF PUBLISHING A NOTICE IN SUCH LOCAL TELEPHONE DIRECTORIES.

20 5. THE BOARD SHALL PRESCRIBE RULES AND REGULATIONS TO ADMINISTER THIS  
21 SECTION.

22 6. A. WHERE IT IS DETERMINED AFTER HEARING THAT ANY PERSON HAS  
23 VIOLATED ONE OR MORE PROVISIONS OF THIS SECTION, THE DIRECTOR, OR ANY  
24 PERSON DEPUTIZED OR SO DESIGNATED BY HIM OR HER MAY ASSESS A FINE NOT TO  
25 EXCEED TWO HUNDRED DOLLARS FOR EACH VIOLATION.

26 B. ANY PROCEEDING CONDUCTED PURSUANT TO PARAGRAPH A OF THIS SUBDIVI-  
27 SION SHALL BE SUBJECT TO THE STATE ADMINISTRATIVE PROCEDURE ACT.

28 C. NOTHING IN THIS SUBDIVISION SHALL BE CONSTRUED TO RESTRICT ANY  
29 RIGHT WHICH ANY PERSON MAY HAVE UNDER ANY OTHER STATUTE OR AT COMMON  
30 LAW.

31 7. A PERSON SHALL NOT BE HELD LIABLE FOR VIOLATING THIS SECTION IF:

32 A. THE PERSON HAS OBTAINED A COPY OF AN UPDATED, QUARTERLY NO POLI-  
33 TICAL SOLICITATION CALL STATEWIDE REGISTRY AND HAS ESTABLISHED AND  
34 IMPLEMENTED WRITTEN POLICIES AND PROCEDURES RELATED TO THE REQUIREMENT  
35 OF THIS SECTION;

36 B. THE PERSON HAS TRAINED HIS OR HER PERSONNEL IN THE REQUIREMENTS OF  
37 THIS SECTION;

38 C. THE PERSON MAINTAINS RECORDS DEMONSTRATING COMPLIANCE WITH PARA-  
39 GRAPHS A AND B OF THIS SUBDIVISION AND THE REQUIREMENTS OF THIS SECTION;  
40 AND

41 D. ANY SUBSEQUENT UNSOLICITED POLITICAL CALL IS THE RESULT OF ERROR.

42 S 2. The opening paragraph of section 92-d of the public service law,  
43 as separately amended by chapters 546 and 547 of the laws of 2000, is  
44 amended to read as follows:

45 Each local exchange telephone company shall inform its customers of  
46 the provisions of sections three hundred ninety-nine-p [and], three  
47 hundred ninety-nine-z [and], three hundred ninety-nine-pp AND THREE  
48 HUNDRED NINETY-NINE-ZZZZ of the general business law and article ten-B  
49 of the personal property law, as such provisions relate to the rights of  
50 consumers with respect to telemarketers, sellers, the no telemarketing  
51 sales [call] CALLS statewide registry, THE NO POLITICAL SOLICITATION  
52 CALL STATEWIDE REGISTRY, and automatic dialing-announcing devices, by  
53 means of:

54 S 3. Section 97-www of the state finance law, as amended by section 53  
55 of part A of chapter 62 of the laws of 2011, is amended to read as  
56 follows:

1 S 97-www. Consumer protection account. 1. There is hereby established  
2 in the joint custody of the state comptroller and the commissioner of  
3 taxation and finance an account within the miscellaneous special revenue  
4 fund to be known as the "consumer protection account."  
5 2. Such account shall consist of all penalties received by the depart-  
6 ment of state pursuant to [section] SECTIONS three hundred ninety-nine-z  
7 AND THREE HUNDRED NINETY-NINE-ZZZZ of the general business law and any  
8 additional monies appropriated, credited or transferred to such account  
9 by the Legislature. Any interest earned by the investment of monies in  
10 such account shall be added to such account, become part of such  
11 account, and be used for the purposes of such account.  
12 3. Monies in the account shall be available to the department of state  
13 for all costs and expenditures related to consumer protection activ-  
14 ities.  
15 4. Monies in the account shall be paid out of the account on the audit  
16 and warrant of the state comptroller on vouchers certified or approved  
17 by the department of state or any officer or employee designated by the  
18 secretary of state.  
19 S 4. Severability. If any clause, sentence, paragraph, section or part  
20 of this act shall be adjudged by any court of competent jurisdiction to  
21 be invalid and after exhaustion of all further judicial review, the  
22 judgment shall not affect, impair or invalidate the remainder thereof,  
23 but shall be confined in its operation to the clause, sentence, para-  
24 graph, section or part of this act directly involved in the controversy  
25 in which the judgment shall have been rendered.  
26 S 5. This act shall take effect April 1, 2013; provided, however, that  
27 any rules and regulations necessary for the timely implementation of  
28 this act on its effective date shall be promulgated on or before such  
29 date.