

First Regular Session
Sixty-third General Assembly
STATE OF COLORADO

CORRECTED REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 01-0365.01 Bart Miller

SENATE BILL 01-093

SENATE SPONSORSHIP

Chlouber,

HOUSE SPONSORSHIP

Larson,

Senate Committees

Business, Labor, and Finance
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE CREATION OF THE COLORADO _____**
102 **NO-CALL LIST FOR RESIDENTIAL TELEPHONE SUBSCRIBERS WHO**
103 **WISH TO AVOID ALL UNWANTED COMMERCIAL TELEPHONE**
104 **SOLICITATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Enacts the "Colorado Telemarketing No-Call List Act" as part of the "Colorado Consumer Protection Act". Declares that the use of the telephone to market goods and services to the home is pervasive. Cites statistics justifying this conclusion. Declares that telemarketing can be an intrusive invasion of privacy in the home and that individual privacy rights

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

SENATE
3rd Reading Unamended
April 3, 2001

SENATE
Amended 2nd Reading
March 27, 2001

can be balanced in a way that accommodates both the privacy of individuals and legitimate telemarketing practices. Determines that it is in the public interest to establish a mechanism under which individual citizens can decide whether or not to receive telemarketing calls in their homes.

Defines special terminology used in this act. Prohibits any person or entity from making any telephone solicitation to the telephone line of any residential subscriber of telephone service in this state that has given notice of the subscriber's objection to receiving telephone solicitations. Sets forth other requirements for making telephone solicitations to residential subscribers in this state.

Creates the Colorado telemarketing no-call list program for the purpose of establishing a database for verifying residential subscribers of telephone service that have given notice of objection to receiving telephone solicitations. Specifies that the office of consumer counsel shall administer the Colorado telemarketing no-call list program. Requires that by a certain date the office of consumer counsel shall contract with a designated agent to maintain the designated state website and database containing the Colorado telemarketing no-call list with information provided by residential subscribers of telephone service.

Requires the office of consumer counsel to establish rules for the development and maintenance of the Colorado telemarketing no-call list. Such rules shall include, but not be limited to: Requiring local exchange providers annually to notify residential subscribers through billing mailings of the opportunity to be on the Colorado telemarketing no-call list; requiring the designated agent to specify methods of getting onto and off of the list and the effect of changes in telephone numbers; requiring the designated agent to maintain an automated on-line complaint reporting system to allow residential subscribers to report suspected violations of this law, for the office of consumer counsel to contact persons or entities reported to have violated the provisions of this act, and to give notice of the steps the office of consumer counsel will take to achieve compliance with the law; including providing necessary information in situations where the office of consumer counsel does not achieve compliance with the law and where further enforcement by the state attorney general or a local district attorney may be necessary.

Provides for penalties for the misuse of information on the Colorado telemarketing no-call list. Provides immunity for the state and the designated agent for activities connected with the operation and maintenance of the Colorado telemarketing no-call list. Specifies that a residential subscriber may subscribe to the Colorado telemarketing no-call list at no cost and that a person desiring to make telephone solicitations shall be given unlimited access to the list at an annual fee on a sliding scale set by the office of consumer counsel of not more than \$500, with certain businesses completely exempted from paying such fee. Specifies

that moneys from such fees be deposited in the Colorado telemarketing no-call database cash fund created in the bill. Provides that moneys in the fund are subject to annual appropriation to cover the costs of the program.

Makes violating the provisions of this act a deceptive trade practice under the "Colorado Consumer Protection Act". Provides for enforcement by the state attorney general and local district attorneys.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** Article 1 of title 6, Colorado Revised Statutes, is
3 amended BY THE ADDITION OF A NEW PART to read:

4 PART 9

5 COLORADO NO-CALL LIST ACT

6 **6-1-901. Short title.** THIS PART 9 SHALL BE KNOWN AND MAY BE
7 CITED AS THE "COLORADO NO-CALL LIST ACT".

8 **6-1-902. Legislative declaration.** (1) THE GENERAL ASSEMBLY
9 HEREBY FINDS, DETERMINES, AND DECLARES THAT:

10 (a) THE USE OF THE TELEPHONE TO MARKET GOODS AND SERVICES
11 TO THE HOME IS WIDESPREAD;

12 (b) MANY CITIZENS OF THIS STATE VIEW TELEMARKETING AS AN
13 INVASION OF PRIVACY;

14 (c) INDIVIDUALS' PRIVACY RIGHTS AND COMMERCIAL FREEDOM OF
15 SPEECH SHOULD BE BALANCED IN A WAY THAT ACCOMMODATES BOTH THE
16 PRIVACY OF INDIVIDUALS AND LEGITIMATE TELEMARKETING PRACTICES;

17 AND

18 (d) IT IS IN THE PUBLIC INTEREST TO ESTABLISH A MECHANISM
19 UNDER WHICH THE INDIVIDUAL CITIZENS OF THIS STATE CAN DECIDE
20 WHETHER OR NOT TO RECEIVE TELEMARKETING CALLS IN THEIR HOMES.

21 **6-1-903. Definitions.** AS USED IN THIS PART 9, UNLESS THE
22 CONTEXT OTHERWISE REQUIRES:

1 (1) "CALLER IDENTIFICATION SERVICE" MEANS A TYPE OF
2 TELEPHONE SERVICE THAT PERMITS TELEPHONE SUBSCRIBERS TO SEE THE
3 TELEPHONE NUMBER OF INCOMING TELEPHONE CALLS.

4 (2) "COLORADO NO-CALL LIST" MEANS THE DATABASE OF
5 COLORADO RESIDENTIAL SUBSCRIBERS THAT HAVE GIVEN NOTICE, IN
6 ACCORDANCE WITH RULES PROMULGATED UNDER SECTION 6-1-905, OF
7 SUCH RESIDENTIAL SUBSCRIBERS' OBJECTION TO RECEIVING TELEPHONE
8 SOLICITATIONS.

9 (3) "CONFORMING CONSOLIDATED NO-CALL LIST" MEANS ANY
10 DATABASE THAT INCLUDES TELEPHONE NUMBERS OF TELEPHONE
11 SUBSCRIBERS THAT DO NOT WISH TO RECEIVE TELEPHONE SOLICITATIONS,
12 IF SUCH DATABASE HAS BEEN UPDATED WITHIN THE PRIOR THIRTY DAYS TO
13 INCLUDE ALL OF THE TELEPHONE NUMBERS ON THE COLORADO NO-CALL
14 LIST.

15 (4) "CONFORMING LIST BROKER" MEANS ANY PERSON OR ENTITY
16 THAT PROVIDES LISTS FOR THE PURPOSE OF TELEPHONE SOLICITATION, IF
17 SUCH LISTS SHALL HAVE REMOVED, AT A MINIMUM OF EVERY THIRTY DAYS,
18 ANY PHONE NUMBERS THAT ARE INCLUDED ON THE COLORADO NO-CALL
19 LIST.

20 (5) "DESIGNATED AGENT" MEANS THE PARTY WITH WHICH THE
21 PUBLIC UTILITIES COMMISSION CONTRACTS UNDER SECTION 6-1-905 (2).

22 (6) "ELECTRONIC MAIL" MEANS AN ELECTRONIC MESSAGE THAT IS
23 TRANSMITTED BETWEEN TWO OR MORE COMPUTERS OR ELECTRONIC
24 TERMINALS. "ELECTRONIC MAIL" INCLUDES ELECTRONIC MESSAGES THAT
25 ARE TRANSMITTED WITHIN OR BETWEEN COMPUTER NETWORKS.

26 (7) "INTERNET" MEANS THE INTERNATIONAL COMPUTER NETWORK
27 CONSISTING OF FEDERAL AND NONFEDERAL, INTEROPERABLE,

1 PACKET-CONTROLLED SWITCHED DATA NETWORKS.

2 (8) (a) "PRIOR OR CURRENT BUSINESS RELATIONSHIP" MEANS THE
3 SITUATION IN WHICH A RESIDENTIAL SUBSCRIBER HAS PURCHASED GOODS
4 OR SERVICES FROM THE CALLER WITHIN FIFTEEN MONTHS BEFORE THE
5 SOLICITATION CALL OR HAS AN ONGOING CONSUMER SERVICE CONTRACT
6 WITH THE CALLER, AND THE SOLICITATION CALL IS DIRECTLY CONNECTED
7 WITH THE GOODS OR SERVICES PURCHASED BY THE RESIDENTIAL
8 SUBSCRIBER OR THE ONGOING CONSUMER SERVICE CONTRACT BETWEEN
9 THE CALLER AND THE RESIDENTIAL SUBSCRIBER.

10 (b) "PRIOR OR CURRENT BUSINESS RELATIONSHIP", WITH RESPECT
11 TO A FINANCIAL INSTITUTION OR AFFILIATE, AS THOSE TERMS ARE DEFINED
12 IN SECTION 527 OF THE FEDERAL "GRAMM-LEACH-BLILEY ACT OF 1999",
13 INCLUDES ANY SITUATION IN WHICH A FINANCIAL INSTITUTION OR
14 AFFILIATE MAKES SOLICITATION CALLS RELATED TO OTHER FINANCIAL
15 SERVICES OFFERED, IF THE FINANCIAL INSTITUTION OR AFFILIATE IS
16 SUBJECT TO THE REQUIREMENTS REGARDING PRIVACY OF TITLE V OF THE
17 FEDERAL "GRAMM-LEACH-BLILEY ACT OF 1999", AND THE FINANCIAL
18 INSTITUTION OR AFFILIATE MAINTAINS AN OFFICE IN COLORADO.

19 (9) "RESIDENTIAL SUBSCRIBER" MEANS A PERSON WHO HAS
20 SUBSCRIBED TO RESIDENTIAL TELEPHONE SERVICE WITH A LOCAL
21 EXCHANGE PROVIDER, AS DEFINED IN SECTION 40-15-102 (18), C.R.S.
22 "PERSON" ALSO INCLUDES ANY OTHER PERSONS LIVING OR RESIDING WITH
23 SUCH PERSON.

24 (10) (a) "TELEPHONE SOLICITATION" MEANS ANY VOICE
25 COMMUNICATION OVER A TELEPHONE LINE FOR THE PURPOSE OF
26 ENCOURAGING THE PURCHASE OR RENTAL OF, OR INVESTMENT IN,
27 PROPERTY, GOODS, OR SERVICES, BUT DOES NOT INCLUDE

1 COMMUNICATIONS:

2 (I) TO ANY RESIDENTIAL SUBSCRIBER WITH THAT SUBSCRIBER'S
3 PRIOR EXPRESS INVITATION OR PERMISSION;

4 (II) BY OR ON BEHALF OF ANY PERSON OR ENTITY WITH WHOM A
5 RESIDENTIAL SUBSCRIBER HAS A PRIOR OR CURRENT BUSINESS
6 RELATIONSHIP;

7 (III) FOR THIRTY DAYS AFTER A RESIDENTIAL SUBSCRIBER HAS
8 CONTACTED A BUSINESS TO INQUIRE ABOUT THE POTENTIAL PURCHASE OF
9 GOODS OR SERVICES OR UNTIL THAT RESIDENTIAL SUBSCRIBER REQUESTS
10 THAT NO FURTHER CALLS BE MADE, WHICHEVER OCCURS FIRST; OR

11 (IV) BY OR ON BEHALF OF A CHARITABLE ORGANIZATION THAT IS
12 REQUIRED TO AND THAT HAS COMPLIED WITH THE NOTICE AND REPORTING
13 REQUIREMENTS OF SECTION 6-16-104 OR IS EXCLUDED FROM SUCH NOTICE
14 AND REPORTING REQUIREMENTS BY SECTION 6-16-103 (7).

15 (b) "TELEPHONE SOLICITATION" INCLUDES ANY COMMUNICATION
16 DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (10), WHETHER SUCH
17 COMMUNICATION ORIGINATES FROM A LIVE OPERATOR, THROUGH THE USE
18 OF AUTOMATIC DIALING AND RECORDED MESSAGE EQUIPMENT, OR BY
19 OTHER MEANS.

20 (c) "TELEPHONE SOLICITATION" DOES NOT INCLUDE POLLS OR
21 POLLING CALLS MADE FOR THE SOLE PURPOSE OF SOLICITING THE
22 EXPRESSION OF IDEAS, OPINIONS, OR VOTES.

23 **6-1-904. Unlawful to make telephone solicitations to residential**
24 **subscribers on the Colorado no-call list - requirements for telephone**
25 **solicitations generally. (1) (a) NO PERSON OR ENTITY SHALL MAKE OR**
26 **CAUSE TO BE MADE ANY TELEPHONE SOLICITATION TO THE TELEPHONE LINE**
27 **OF ANY RESIDENTIAL SUBSCRIBER IN THIS STATE WHO HAS ADDED HIS OR**

1 HER TELEPHONE NUMBER AND ZIP CODE TO THE COLORADO NO-CALL LIST
2 IN ACCORDANCE WITH RULES PROMULGATED UNDER SECTION 6-1-905.

3 (b) ANY PERSON OR ENTITY THAT MAKES A TELEPHONE
4 SOLICITATION TO THE TELEPHONE LINE OF ANY RESIDENTIAL SUBSCRIBER
5 IN THIS STATE SHALL REGISTER IN ACCORDANCE WITH THE PROVISIONS OF
6 SECTION 6-1-905 (3) (b) (II).

7 (2) ANY PERSON OR ENTITY THAT MAKES A TELEPHONE
8 SOLICITATION TO THE TELEPHONE LINE OF ANY RESIDENTIAL SUBSCRIBER
9 IN THIS STATE SHALL COMPLY WITH THE DISCLOSURE REQUIREMENTS OF
10 SECTION 6-1-702.

11 (3) NO PERSON OR ENTITY WHO MAKES A TELEPHONE SOLICITATION
12 TO THE TELEPHONE LINE OF A RESIDENTIAL SUBSCRIBER IN THIS STATE
13 SHALL KNOWINGLY UTILIZE ANY METHOD TO BLOCK OR OTHERWISE
14 CIRCUMVENT SUCH SUBSCRIBER'S USE OF A CALLER IDENTIFICATION
15 SERVICE WHEN THAT PERSON OR ENTITY'S SERVICE OR EQUIPMENT IS
16 CAPABLE OF ALLOWING THE DISPLAY OF THE NUMBER.

17 (4) PERSONS OR ENTITIES DESIRING TO MAKE TELEPHONE
18 SOLICITATIONS SHALL UPDATE THEIR COPIES OF THE COLORADO NO-CALL
19 LIST, CONFORMING CONSOLIDATED NO-CALL LIST, OR A LIST OBTAINED
20 FROM A CONFORMING LIST BROKER WITHIN THIRTY DAYS AFTER THE
21 BEGINNING OF EVERY CALENDAR QUARTER, ON OR AFTER JULY 1, 2002, OR
22 UPON THE INITIAL AVAILABILITY AND ACCESSABILITY OF THE COLORADO
23 NO-CALL LIST, WHICHEVER IS EARLIER.

24 **6-1-905. Establishment and operation of a Colorado no-call list.**

25 (1) THE COLORADO NO-CALL LIST PROGRAM IS HEREBY CREATED FOR THE
26 PURPOSE OF ESTABLISHING A DATABASE TO USE WHEN VERIFYING
27 RESIDENTIAL SUBSCRIBERS IN THIS STATE WHO HAVE GIVEN NOTICE, IN

1 ACCORDANCE WITH RULES PROMULGATED UNDER PARAGRAPH (b) OF
2 SUBSECTION (3) OF THIS SECTION, OF SUCH SUBSCRIBERS' OBJECTION TO
3 RECEIVING TELEPHONE SOLICITATIONS. THE PROGRAM SHALL BE
4 ADMINISTERED BY THE PUBLIC UTILITIES COMMISSION.

5 (2) NOT LATER THAN JANUARY 1, 2002, THE PUBLIC UTILITIES
6 COMMISSION SHALL CONTRACT WITH A DESIGNATED AGENT, WHICH SHALL
7 MAINTAIN THE WEBSITE AND DATABASE CONTAINING THE COLORADO
8 NO-CALL LIST. IF NO MORE THAN ONE ENTITY BIDS ON THE CONTRACT, THE
9 PUBLIC UTILITIES COMMISSION MAY AWARD, AT ITS DISCRETION, SUCH
10 CONTRACT.

11 (3) (a) NOT LATER THAN JULY 1, 2002, THE DESIGNATED AGENT,
12 USING THE DESIGNATED STATE INTERNET WEBSITE, SHALL DEVELOP AND
13 MAINTAIN THE COLORADO NO-CALL LIST DATABASE WITH INFORMATION
14 PROVIDED BY RESIDENTIAL SUBSCRIBERS.

15 (b) THE PUBLIC UTILITIES COMMISSION SHALL ESTABLISH, BY RULE,
16 GUIDELINES FOR THE DESIGNATED AGENT FOR THE DEVELOPMENT AND
17 MAINTENANCE OF THE COLORADO NO-CALL LIST SO THAT THE NO-CALL
18 LIST CAN EASILY BE ACCESSED BY PERSONS OR ENTITIES DESIRING TO MAKE
19 TELEPHONE SOLICITATIONS, AND BY STATE AND LOCAL LAW ENFORCEMENT
20 AGENCIES. NO LATER THAN APRIL 1, 2002, THE PUBLIC UTILITIES
21 COMMISSION SHALL PROMULGATE RULES THAT:

22 (I) SPECIFY THAT THERE SHALL BE NO COST FOR A RESIDENTIAL
23 SUBSCRIBER TO PROVIDE NOTIFICATION TO THE DESIGNATED AGENT THAT
24 SUCH SUBSCRIBER OBJECTS TO RECEIVING TELEPHONE SOLICITATIONS;

25 (II) SPECIFY THAT THERE SHALL BE AN ANNUAL REGISTRATION FEE
26 OF NOT MORE THAN FIVE HUNDRED DOLLARS FOR PERSONS OR ENTITIES
27 THAT WISH TO MAKE TELEPHONE SOLICITATIONS OR OTHERWISE ACCESS

1 THE DATABASE OF TELEPHONE NUMBERS AND ZIP CODES CONTAINED IN THE
2 COLORADO NO-CALL LIST DATABASE. THE PUBLIC UTILITIES COMMISSION
3 SHALL DETERMINE SUCH FEE ON A SLIDING SCALE SO THAT PERSONS OR
4 ENTITIES WITH FEWER THAN FIVE EMPLOYEES SHALL PAY NO FEE. IN
5 ADDITION, THERE SHALL BE NO FEE CHARGED TO CONFORMING LIST
6 BROKERS OR NONPROFIT CORPORATIONS, AS DEFINED IN SECTION
7 7-121-401 (26), C.R.S. THE MAXIMUM FEE SHALL BE CHARGED ONLY TO
8 PERSONS OR ENTITIES WITH MORE THAN ONE THOUSAND EMPLOYEES.
9 MONEYS COLLECTED FROM SUCH FEES SHALL COVER THE DIRECT AND
10 INDIRECT COSTS RELATED TO THE CREATION AND OPERATION OF THE
11 COLORADO NO-CALL LIST. MONEYS FROM SUCH FEES SHALL BE
12 COLLECTED BY AND PAID DIRECTLY TO THE DESIGNATED AGENT. THE
13 PUBLIC UTILITIES COMMISSION SHALL HAVE THE AUTHORITY TO ANNUALLY
14 ADJUST THE FEES BELOW THE STATED MAXIMUM BASED ON REVENUE
15 HISTORY OF THE FEES RECEIVED BY THE DESIGNATED AGENT. THE
16 DESIGNATED AGENT SHALL PROVIDE MEANS FOR ON-LINE REGISTRATION
17 AND CREDIT CARD PAYMENT OF FEES CHARGED PURSUANT TO THIS
18 SUBPARAGRAPH (II). EACH SUCH PERSON OR ENTITY SHALL PROVIDE A
19 CURRENT BUSINESS NAME, BUSINESS ADDRESS, EMAIL ADDRESS IF
20 AVAILABLE, AND TELEPHONE NUMBER WHEN INITIALLY REGISTERING FOR
21 THE NO-CALL LIST. THIS INFORMATION MUST BE UPDATED WHEN CHANGES
22 OCCUR. FOR PURPOSES OF THIS SUBPARAGRAPH (II), SO LONG AS A PERSON
23 OR ENTITY UTILIZES A CONSOLIDATED CONFORMING NO-CALL LIST OR
24 ACQUIRES A TELEPHONE LIST FROM A CONFORMING LIST BROKER, SUCH
25 PERSON OR ENTITY SHALL ONLY BE SUBJECT TO FEES REQUIRED BY THIS
26 SUBPARAGRAPH (II) FOR THE FIRST YEAR SUCH PERSON OR ENTITY MAKES
27 TELEPHONE SOLICITATIONS IN COLORADO.

1 (III) SPECIFY THAT THE METHOD BY WHICH EACH RESIDENTIAL
2 SUBSCRIBER MAY GIVE NOTICE TO THE DESIGNATED AGENT OF HIS OR HER
3 OBJECTION TO RECEIVING SUCH SOLICITATIONS OR REVOCATION OF SUCH
4 NOTICE SHALL BE EXCLUSIVELY BY ENTERING THE AREA CODE, PHONE
5 NUMBER, AND ZIP CODE OF THE RESIDENTIAL SUBSCRIBER DIRECTLY INTO
6 THE DATABASE VIA THE DESIGNATED STATE INTERNET WEBSITE OR BY
7 USING A TOUCH-TONE PHONE TO ENTER THE AREA CODE, PHONE NUMBER,
8 AND ZIP CODE OF THE RESIDENTIAL SUBSCRIBER VIA A DESIGNATED
9 STATEWIDE, TOLL-FREE TELEPHONE NUMBER MAINTAINED BY THE
10 DESIGNATED AGENT AS A PART OF THE COLORADO NO-CALL LIST;

11 (IV) REQUIRE THE DESIGNATED AGENT TO PROVIDE UPDATED
12 INFORMATION ABOUT THE COLORADO NO-CALL LIST PROGRAM ON THE
13 DESIGNATED STATE WEBSITE SUBJECT TO THE OVERSIGHT OF THE PUBLIC
14 UTILITIES COMMISSION;

15 (V) SPECIFY THE METHODS BY WHICH ADDITIONS, DELETIONS,
16 CHANGES, AND MODIFICATIONS SHALL BE MADE TO THE COLORADO
17 NO-CALL LIST DATABASE AND HOW UPDATES OF THE DATABASE WILL BE
18 MADE AVAILABLE TO PERSONS OR ENTITIES DESIRING SUCH UPDATES. SUCH
19 METHODS SHALL INCLUDE PROVISIONS TO REMOVE FROM THE COLORADO
20 NO-CALL LIST, ON AT LEAST AN ANNUAL BASIS, ANY TELEPHONE NUMBER
21 THAT HAS BEEN DISCONNECTED OR REASSIGNED.

22 (VI) REQUIRE THE DESIGNATED AGENT TO MAINTAIN AN
23 AUTOMATED, ON-LINE COMPLAINT SYSTEM FOR RESIDENTIAL SUBSCRIBERS
24 TO REPORT SUSPECTED VIOLATIONS OVER THE INTERNET WEBSITE. THE
25 AUTOMATED, ON-LINE COMPLAINT SYSTEM SHALL HAVE THE CAPABILITY TO
26 COLLECT, SORT, AND REPORT SUSPECTED VIOLATIONS TO THE APPROPRIATE
27 STATE ENFORCEMENT AGENCY ELECTRONICALLY FOR ENFORCEMENT

1 PURPOSES.

2 (VII) SPECIFY THAT THE NO-CALL LIST SHALL BE AVAILABLE
3 ON-LINE TO PERSONS OR ENTITIES DESIRING TO MAKE TELEPHONE
4 SOLICITATIONS ON-LINE AT THE COLORADO NO-CALL LIST WEBSITE IF THE
5 PERSON OR ENTITY HAS REGISTERED IN ACCORDANCE WITH THE PROVISIONS
6 OF SUBPARAGRAPH (II) OF THIS PARAGRAPH (b). THE LIST WILL BE
7 AVAILABLE ONLY IN A TEXT FORMAT BUT SHALL ALLOW TELEPHONE
8 SOLICITORS TO SELECT AND SORT BY SPECIFIC ZIP CODES AND TELEPHONE
9 AREA CODES. TELEPHONE SOLICITORS AND CONFORMING LIST BROKERS
10 SHALL NOT RECEIVE ADDITIONAL COMPENSATION FOR DISTRIBUTING THE
11 COLORADO NO-CALL LIST, BUT ARE ENCOURAGED TO FREELY DISTRIBUTE
12 THE COLORADO NO-CALL LIST AT NO COST.

13 (VIII) SPECIFY SUCH OTHER MATTERS RELATING TO THE DATABASE
14 AS THE PUBLIC UTILITIES COMMISSION DEEMS NECESSARY OR DESIRABLE.

15 (c) IF THE APPROPRIATE FEDERAL AGENCY ESTABLISHES A SINGLE
16 NATIONAL DATABASE OF TELEPHONE NUMBERS OF RESIDENTIAL
17 SUBSCRIBERS WHO OBJECT TO RECEIVING TELEPHONE SOLICITATIONS, THE
18 DESIGNATED AGENT SHALL INCLUDE THAT PORTION OF SUCH SINGLE
19 NATIONAL DATABASE THAT RELATES TO COLORADO IN THE COLORADO
20 NO-CALL LIST ESTABLISHED UNDER THIS PART 9.

21 (4) THE STATE SHALL NOT BE LIABLE TO ANY PERSON FOR
22 GATHERING, MANAGING, OR USING INFORMATION IN THE COLORADO
23 NO-CALL LIST DATABASE PURSUANT TO THIS PART 9 AND FOR ENFORCING
24 THE PROVISIONS OF THIS PART 9.

25 (5) THE DESIGNATED AGENT SHALL NOT BE LIABLE TO ANY PERSON
26 FOR PERFORMING ITS DUTIES UNDER THIS PART 9 UNLESS, AND ONLY TO THE
27 EXTENT THAT, THE DESIGNATED AGENT COMMITS A WILLFUL AND WANTON

1 ACT OR OMISSION.

2 (6) BEGINNING NOT LATER THAN JULY 1, 2002, THE DESIGNATED
3 AGENT SHALL UPDATE THE DATABASE WITH INFORMATION PROVIDED BY
4 RESIDENTIAL SUBSCRIBERS ON AN ONGOING BASIS.

5 (7) NO PERSON SHALL PLACE THE TELEPHONE NUMBER OF ANOTHER
6 PERSON ON THE COLORADO NO-CALL LIST WITHOUT THE AUTHORIZATION
7 OF THE PERSON TO WHOM THE NUMBER IS ASSIGNED.

8 **6-1-906. Enforcement - penalty.** (1) ON AND AFTER JULY 1,
9 2002, VIOLATION OF ANY PROVISION OF THIS PART 9 CONSTITUTES A
10 DECEPTIVE TRADE PRACTICE UNDER THE PROVISIONS OF SECTION 6-1-105
11 (1) AND MAY BE ENFORCED UNDER SECTIONS 6-1-110, 6-1-112, AND
12 6-1-113. NO STATE ENFORCEMENT ACTION UNDER THIS PART 9 MAY BE
13 BROUGHT AGAINST A PERSON OR ENTITY FOR FEWER THAN THREE
14 VIOLATIONS PER MONTH.

15 (2) IT SHALL BE AN AFFIRMATIVE DEFENSE IN ANY ACTION OR
16 PROCEEDING BROUGHT UNDER THIS PART 9 THAT THE DEFENDANT HAS
17 OTHERWISE FULLY COMPLIED WITH THE PROVISIONS OF THIS PART 9 AND
18 HAS ESTABLISHED AND IMPLEMENTED, PRIOR TO THE VIOLATION, WRITTEN
19 PRACTICES AND PROCEDURES TO EFFECTIVELY PREVENT TELEPHONE
20 SOLICITATIONS IN VIOLATION OF THIS PART 9.

21 (3) THE REMEDIES, DUTIES, PROHIBITIONS, AND PENALTIES OF THIS
22 SECTION ARE NOT EXCLUSIVE AND ARE IN ADDITION TO ALL OTHER CAUSES
23 OF ACTION, REMEDIES, AND PENALTIES PROVIDED BY LAW.

24 (4) NO PROVIDER OF TELEPHONE CALLER IDENTIFICATION SERVICE
25 SHALL BE HELD LIABLE FOR VIOLATIONS OF THIS PART 9 COMMITTED BY
26 OTHER PERSONS OR ENTITIES.

27 **6-1-907. Acceptance of gifts, grants, and donations.** THE PUBLIC

1 UTILITIES COMMISSION MAY ACCEPT AND EXPEND MONEYS FROM GIFTS,
2 GRANTS, AND DONATIONS FOR PURPOSES OF ADMINISTERING THE
3 PROVISIONS OF THIS PART 9.

4 **SECTION 2.** 6-1-105 (1), Colorado Revised Statutes, is amended
5 BY THE ADDITION OF A NEW PARAGRAPH to read:

6 **6-1-105. Deceptive trade practices.** (1) A person engages in a
7 deceptive trade practice when, in the course of such person's business,
8 vocation, or occupation, such person:

9 (tt) VIOLATES ANY PROVISION OF PART 9 OF THIS ARTICLE.

10 **SECTION 3.** 6-1-113 (1) (a), Colorado Revised Statutes, is
11 amended to read:

12 **6-1-113. Damages.** (1) The provisions of this article shall be
13 available in a civil action for any claim against any person who has
14 engaged in or caused another to engage in any deceptive trade practice
15 listed in this article. An action under this section shall be available to any
16 person who:

17 (a) Is an actual or potential consumer of the defendant's goods,
18 services, or property and is injured as a result of such deceptive trade
19 practice AND IS INJURED AS A RESULT OF SUCH DECEPTIVE TRADE PRACTICE,
20 OR IS A RESIDENTIAL SUBSCRIBER, AS DEFINED IN SECTION 6-1-903 (7), WHO
21 RECEIVES UNLAWFUL TELEPHONE SOLICITATION, AS DEFINED IN SECTION
22 6-1-903 (8); or

23 **SECTION 4. Effective date - applicability.** (1) This act shall
24 take effect at 12:01 a.m. on the day following the expiration of the
25 ninety-day period after final adjournment of the general assembly that is
26 allowed for submitting a referendum petition pursuant to article V, section
27 1 (3) of the state constitution; except that, if a referendum petition is filed

1 against this act or an item, section, or part of this act within such period,
2 then the act, item, section, or part, if approved by the people, shall take
3 effect on the date of the official declaration of the vote thereon by
4 proclamation of the governor.

5 (2) The provisions of this act shall apply to acts occurring on or
6 after the applicable effective date of this act.