

By: Representative Holland

To: Public Utilities

HOUSE BILL NO. 723

1 AN ACT TO BE KNOWN AS THE "TELEPHONE CONSUMER SLAMMING
 2 PREVENTION ACT"; TO DEFINE CERTAIN TERMS USED IN THE ACT; TO
 3 PROHIBIT TELECOMMUNICATIONS COMPANIES FROM CHANGING A SUBSCRIBER'S
 4 SERVICE WITHOUT AUTHORIZATION FOR THE CHANGE; TO REQUIRE NEWLY
 5 AUTHORIZED SERVICE PROVIDERS TO PROVIDE WRITTEN CONFIRMATION OF A
 6 CHANGE IN SERVICE TO THE SUBSCRIBER; TO ESTABLISH A PROCEDURE FOR
 7 SUBSCRIBERS WHO HAVE HAD AN UNAUTHORIZED CHANGE OF SERVICE TO BE
 8 REFUNDED EXCESS CHARGES PAID DUE TO THE CHANGE OF SERVICE; TO
 9 AUTHORIZE THE ATTORNEY GENERAL TO SEEK CIVIL PENALTIES FOR
 10 VIOLATIONS OF THIS ACT; TO REQUIRE THE PUBLIC SERVICE COMMISSION
 11 TO PROMULGATE RULES AND REGULATIONS FOR IMPLEMENTING THIS ACT; AND
 12 FOR RELATED PURPOSES.

13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

14 **SECTION 1.** This act shall be known and may be cited as the
 15 "Telephone Consumer Slamming Prevention Act."

16 **SECTION 2.** As used in this article, the following words and
 17 phrases have the meanings ascribed in this section unless the
 18 context clearly indicates otherwise:

19 (a) "Basic local exchange service" means the access and
 20 transmission of two-way switched voice communications within a
 21 local exchange area.

22 (b) "Interexchange service" means the access and
 23 transmission of communications between two (2) or more local
 24 exchange areas, except for two-way switched communications between
 25 local exchanges that are grouped for extended area service.

26 (c) "Inter-LATA interexchange service" means
 27 interexchange service originating and terminating in different
 28 LATAs.

29 (d) "Intra-LATA interexchange service" means
 30 interexchange service originating and terminating within the same
 31 LATA.



32 (e) "LATA" means local access transport area, as
33 defined by applicable federal law, rules or regulations.

34 (f) "Local exchange area" means a territorial area
35 established by a telecommunications company for the administration
36 of telecommunications service for which a Certificate of Public
37 Convenience and Necessity has been issued to the company by the
38 Public Service Commission.

39 (g) "Telecommunications company" means a public utility
40 of the type defined in Section 77-3-3(d)(iii).

41 (h) "Telecommunications service" means service provided
42 by a public utility of the type defined in Section 77-3-3(d)(iii).

43 **SECTION 3.** This act applies to all telecommunications
44 companies providing basic local exchange service, intra-LATA
45 interexchange service, inter-LATA interexchange service and any
46 other telecommunications services to subscribers in this state.

47 **SECTION 4.** (1) Unless a subscriber initiates a request for
48 a change of service by contacting the telecommunications company
49 directly, a telecommunications company may not submit or execute a
50 change in a subscriber's provider of basic local exchange service,
51 intra-LATA interexchange service, or inter-LATA interexchange
52 service without one (1) of the following forms of authorization:

53 (a) Written change authorization from the subscriber;

54 (b) Toll free electronic authorization placed from the
55 telephone number that is the subject of the change order; or

56 (c) Oral authorization obtained by an independent third
57 party.

58 (2) A separate and distinct authorization is required to
59 execute a change of service for any of the following services
60 provided to subscribers in this state: basic local exchange
61 service; intra-LATA interexchange service; inter-LATA
62 interexchange service; or any other telecommunications service.

63 **SECTION 5.** Within thirty (30) days after a subscriber
64 changes the subscriber's authorized provider of basic local



65 exchange service, intra-LATA interexchange service or inter-LATA
66 interexchange service, the new authorized service provider must
67 provide to the subscriber written confirmation of the change. The
68 written confirmation must: (a) describe clearly and simply the
69 nature of the subscription change; (b) not be a part of, or
70 attached to, any other document; (c) not contain any promotion,
71 offer or inducement; and (d) be mailed to the subscriber's billing
72 address.

73 **SECTION 6.** (1) If a subscriber determines that an
74 unauthorized change of service has occurred in violation of
75 Section 4 of this act and the subscriber has paid charges to an
76 allegedly unauthorized telecommunications company, the subscriber
77 may notify the company authorized to provide service to the
78 subscriber of the unauthorized change and charges paid. Within
79 thirty (30) days after receiving this notification, the properly
80 authorized company must request from the allegedly unauthorized
81 company proof of verification of the subscriber's authorization to
82 change companies. Within ten (10) days after receiving the
83 request, the allegedly unauthorized company must forward to the
84 authorized company either:

85 (a) Proof of verification of the subscriber's
86 authorization to change companies; or

87 (b) An amount equal to all charges paid by the
88 subscriber to the unauthorized company, an amount equal to any
89 charge required to return the subscriber to the subscriber's
90 properly authorized company, if applicable, and copies of any
91 telephone bills issued from the unauthorized company to the
92 subscriber.

93 (2) If a subscriber notifies the unauthorized company,
94 rather than the authorized company, of an unauthorized change, the
95 unauthorized company must notify the authorized company
96 immediately.



97 (3) If an authorized company incurs any billing and
98 collection expenses in collecting charges from the unauthorized
99 company, the unauthorized company must reimburse the authorized
100 company for the reasonable billing and collection expenses.

101 (4) Upon receipt from the unauthorized company of the amount
102 equal to charges paid by the subscriber to the unauthorized
103 company, the authorized company shall issue a refund or credit to
104 the subscriber for all charges paid in excess of the amount that
105 the authorized company would have charged the subscriber absent
106 the unauthorized change. If the authorized company does not
107 receive this amount from the unauthorized company, the authorized
108 company is not required to provide any refund or credit to the
109 subscriber; however, the authorized company must inform, within
110 sixty (60) days after receiving notification of the unauthorized
111 change, the subscriber of its failure to collect the charges from
112 the unauthorized company and of the subscriber's right to pursue a
113 claim against the unauthorized company for a refund of all charges
114 paid to the unauthorized company.

115 (5) Whenever possible, the properly authorized company shall
116 reinstate the subscriber in any premium program in which the
117 subscriber was enrolled before the unauthorized change if the
118 subscriber's participation in the premium program was terminated
119 because of the unauthorized change. If the subscriber has paid
120 charges to the unauthorized company, the properly authorized
121 company also must provide or restore to the subscriber any
122 premiums to which the subscriber would have been entitled had the
123 unauthorized change not occurred, regardless of whether the
124 authorized company is able to recover from the unauthorized
125 company any charges that were paid by the subscriber.

126 **SECTION 7.** If the Public Service Commission finds that a
127 telecommunications company has violated this act, the commission
128 must order the company to take necessary corrective action and may
129 refer the matter to the Attorney General for investigation. If



130 the Attorney General finds, after investigation, that there has
131 been a violation, the Attorney General may bring an action to
132 impose a civil penalty and to seek other appropriate relief,
133 including injunctive relief. The civil penalty may not exceed Two
134 Thousand Dollars (\$2,000.00) per violation and must be deposited
135 in the State General Fund. Alternatively, the Attorney General
136 may terminate any investigation or action upon agreement by the
137 telecommunications company to pay a stipulated civil penalty. The
138 Attorney General or the court may waive any civil penalty if the
139 telecommunications company previously has made full restitution or
140 reimbursement or has paid actual damages to the subscribers who
141 have been injured by the violation. Every violation associated
142 with a specific access line within the state is a separate and
143 distinct violation.

144 **SECTION 8.** The Public Service Commission shall promulgate
145 rules and regulations to implement this act, including rules and
146 regulations that:

147 (a) Ensure that subscribers are protected from
148 deceptive practices in the obtaining of authorizations and
149 verifications required by Section 4 of this act;

150 (b) Are applicable to all basic local exchange service,
151 intra-LATA interexchange service, inter-LATA interexchange service
152 and other telecommunications services provided by
153 telecommunications companies in this state;

154 (c) Establish a slamming complaint system for
155 subscribers of telecommunications service; and

156 (d) Are consistent with federal law and rules and
157 regulations prescribed by the Federal Communications Commission
158 prohibiting telecommunications companies from changing a
159 subscriber's service without consent from the subscriber.

160 **SECTION 9.** Sections 1 through 8 of this act shall be
161 codified as a separate article in Chapter 3, Title 77, Mississippi
162 Code of 1972.



163 **SECTION 10.** This act shall take effect and be in force from
164 and after July 1, 2002.

