

By: Representative Hood

To: Public Utilities

HOUSE BILL NO. 1352

1 AN ACT TO AMEND SECTION 83-9-110, MISSISSIPPI CODE OF 1972,
 2 TO PROHIBIT ISSUERS OF MEDICARE SUPPLEMENTS FROM MAKING TELEPHONE
 3 SOLICITATIONS; TO AMEND SECTION 77-3-715, MISSISSIPPI CODE OF
 4 1972, TO AUTHORIZE THE ATTORNEY GENERAL TO ESTABLISH A PROCESS BY
 5 WHICH CONSUMERS WHO HAVE REGISTERED WITH THE DO NOT CALL REGISTRY
 6 CAN OBJECT TO ALL TELEPHONE SOLICITATIONS, INCLUDING THOSE THAT
 7 ARE EXEMPT; TO AMEND SECTION 77-3-711, MISSISSIPPI CODE OF 1972,
 8 TO EXCLUDE ISSUERS OF MEDICARE SUPPLEMENTS FROM THE EXEMPTION FOR
 9 CALLS RELATING TO INSURANCE FROM THE REQUIREMENTS OF THE TELEPHONE
 10 SOLICITATION ACT; TO AMEND SECTION 77-3-709, MISSISSIPPI CODE OF
 11 1972, TO EXCLUDE CALLS TO CONSUMERS WHO HAVE OBJECTED TO ALL
 12 TELEPHONE SOLICITATIONS FROM CERTAIN EXEMPTIONS TO THE NO-CALLS
 13 DATABASE REQUIREMENTS WHICH THE ATTORNEY GENERAL IS AUTHORIZED TO
 14 MAKE; AND FOR RELATED PURPOSES.

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

16 **SECTION 1.** Section 83-9-110, Mississippi Code of 1972, is
 17 amended as follows:

18 83-9-110. (1) Every issuer of Medicare supplement insurance
 19 policies or certificates in this state shall provide a copy of any
 20 Medicare supplement advertisement intended for use in this state,
 21 whether through written, radio or television medium, to the
 22 commissioner for review and approval.

23 (2) An issuer may not make or cause to be made a telephone
 24 solicitation, as that term is defined in Section 77-3-705, for the



25 purpose of advertising the sale or soliciting the purchase of a
26 Medicare supplement policy or certificate.

27 **SECTION 2.** Section 77-3-715, Mississippi Code of 1972, is
28 amended as follows:

29 77-3-715. The Attorney General may promulgate rules and
30 regulations necessary to effectuate this article, including, but
31 not limited to, the following:

32 (a) The methods by which a notice of objection becomes
33 effective and the effect of a change of telephone number on the
34 notice;

35 (b) The establishment of a process by which a consumer
36 who has registered with the Do Not Call Registry can register with
37 the Attorney General an objection to all telephone solicitations,
38 including those that are exempt under Section 77-3-709 or 77-3-711
39 or federal rule or law;

40 (c) The process by which telephone solicitors must
41 register with the Attorney General for the purpose of conducting
42 telephonic solicitations in the state;

43 (* * * d) The establishment of a written policy which
44 clearly articulates the circumstances under which the Attorney
45 General, in his or her discretion, may allow exceptions to the
46 provisions of this article pursuant to Section * * * 77-3-709; and

47 (* * * e) All other matters relating to the database
48 that the Attorney General deems necessary.



49 **SECTION 3.** Section 77-3-711, Mississippi Code of 1972, is
50 amended as follows:

51 77-3-711. Except in the case of a telephone solicitation to
52 a consumer who, in addition to having registered with the Do Not
53 Call Registry, has registered with the Attorney General an
54 objection to all telephone solicitations under Section 77-3-715,
55 the provisions of this article shall not apply to:

56 (a) A person soliciting:

57 (i) Who does not make the major sales presentation
58 during the telephone solicitation;

59 (ii) Without the intent to complete or obtain
60 provisional acceptance of a sale, a charitable contribution, or
61 the payment of some other item of value, pecuniary or otherwise,
62 during the telephone solicitation; or

63 (iii) Without the intent to complete, and who does
64 not complete, the sales presentation during the telephone
65 solicitation, but who completes the sales presentation at a later
66 face-to-face meeting between the person soliciting and the
67 prospective purchaser or consumer.

68 (b) A person who is a licensee under Chapter 35, Title
69 73, Mississippi Code of 1972, who is a resident of the State of
70 Mississippi, and whose telephone solicitation is for the sole
71 purpose of selling, exchanging, purchasing, renting, listing for
72 sale or rent or leasing real estate in connection with his real
73 estate license and not in conjunction with any other offer.



74 (c) A motor vehicle dealer as that term is defined in
75 Section 63-17-55, who is a resident of the State of Mississippi
76 and who maintains a current motor vehicle dealer's license issued
77 by the Mississippi Motor Vehicle Commission, whose telephone
78 solicitation is for the sole purpose of selling, offering to sell,
79 soliciting or advertising the sale of motor vehicles in connection
80 with his motor vehicle dealer's license and not in conjunction
81 with any other offer.

82 (d) An agent, as that term is defined in Section
83 83-17-1, whose telephone solicitation is for the sole purpose of
84 soliciting, consulting, advising, or adjusting in the business of
85 insurance; however, this exemption is not applicable to a person
86 calling on behalf of any issuer, as that term is defined in
87 Section 83-9-101, whose telephone solicitation is for the sole
88 purpose of making a sales presentation or otherwise soliciting the
89 purchase of a Medicare supplement policy or certificate.

90 (e) A broker-dealer, agent, or investment advisor
91 registered under Chapter 71, Title 75, Mississippi Code of 1972,
92 whose telephone solicitation is for the sole purpose of effecting
93 or attempting to effect the purchase or sale of securities or has
94 the purpose of providing or seeking to provide investment or
95 financial advice.

96 (f) A person calling on behalf of a charitable
97 organization which is registered under Chapter 11, Title 79,
98 Mississippi Code of 1972, whose telephone solicitation is for the



99 sole purpose of soliciting for the charitable organization and who
100 receives no compensation for his activities on behalf of the
101 organization.

102 (g) A person calling on behalf of a newspaper of
103 general circulation, whose telephone solicitation is for the sole
104 purpose of soliciting a subscription to the newspaper from, or
105 soliciting the purchase of advertising by, the consumer.

106 (h) A person calling on behalf of any supervised
107 financial institution or parent, subsidiary or affiliate thereof.
108 As used in this section, "supervised financial institution" means
109 any commercial bank, trust company, savings and loan association,
110 mutual savings bank, credit union, industrial loan company, small
111 loan company, consumer finance lender, commercial finance lender
112 or insurer, provided that the institution has a physical office
113 located in the State of Mississippi and is subject to supervision
114 by an official or agency of the State of Mississippi or of the
115 United States.

116 (i) A person calling on behalf of a funeral
117 establishment licensed under Section 73-11-41, cemetery or
118 monument dealer, if the sole purpose of the telephone solicitation
119 relates to services provided by the funeral or death related
120 establishments in the course of its ordinary business.

121 (j) Any telephone solicitor who solicits a consumer
122 with whom he has an established business relationship.



123 **SECTION 4.** Section 77-3-709, Mississippi Code of 1972, is
124 amended as follows:

125 77-3-709. The Attorney General, in his or her discretion,
126 may allow telephone solicitors to make telephone solicitations to
127 consumers other than those who have registered with the Attorney
128 General an objection to all telephone solicitations under Section
129 77-3-715 without requiring them to purchase the "no-calls"
130 database, * * * provided that * * * the Attorney General adopts a
131 written policy incorporating the following criteria:

132 (a) The telephone solicitor must demonstrate to the
133 Attorney General that its proposed telephone solicitation is
134 reasonably related to an established business relationship as
135 defined in Section 77-3-705(h), or is being made in response to an
136 invitation or notice from a consumer which clearly signifies that
137 he is open to a contact being initiated;

138 (b) The telephone solicitation is to be made by a
139 person or entity for the purpose of soliciting a contribution or
140 donation to a bona fide nonprofit corporation, regardless of
141 whether consumer goods or services will be provided to the
142 consumer in return for the contribution or donation; or

143 (c) The consumer will not be telephoned for a telephone
144 solicitation as defined in Section 77-3-705(d), but he will be
145 telephoned for a bona fide religious or charitable purpose,
146 including an invitation to attend an event or a request for a
147 contribution or donation.



148 In all cases, the telephone solicitor must demonstrate that
149 it will not use an automated dialing system or a method that will
150 block or otherwise circumvent the consumer's use of a caller
151 identification service.

152 In making its determination of whether to allow a telephone
153 solicitation to be made under the policy which will include the
154 limitations set forth in this section, the Attorney General shall
155 exercise due care in investigating previous conduct of the
156 telephone solicitor seeking such authority. The Attorney General
157 may deny any telephone solicitor the privilege of making telephone
158 solicitations under this section, notwithstanding that any of the
159 criteria set forth in this section have been met.

160 **SECTION 5.** This act shall take effect and be in force from
161 and after July 1, 2024.

