

By: Representatives Bounds, Stamps

To: Public Utilities

HOUSE BILL NO. 1225  
(As Sent to Governor)

1 AN ACT TO AMEND SECTIONS 77-3-705, 77-3-707, 77-3-709,  
2 77-3-713, 77-3-715, 77-3-717, 77-3-721, 77-3-725, 77-3-727,  
3 77-3-731, 77-3-733 AND 77-3-735, MISSISSIPPI CODE OF 1972, WHICH  
4 RELATE TO THE MISSISSIPPI TELEPHONE SOLICITATION ACT, TO TRANSFER  
5 THE STATE'S TELEPHONE SOLICITATION ADMINISTRATIVE, INVESTIGATIVE,  
6 AND ENFORCEMENT RESPONSIBILITIES AND DUTIES FROM THE MISSISSIPPI  
7 PUBLIC SERVICE COMMISSION TO THE MISSISSIPPI ATTORNEY GENERAL; TO  
8 REMOVE THE DEFINITION OF THE TERM "COMMISSION"; TO DEFINE THE TERM  
9 "DO NOT CALL REGISTRY"; TO REMOVE ALL REFERENCES TO THE PUBLIC  
10 SERVICE COMMISSION, AND INSERT THE ATTORNEY GENERAL IN LIEU  
11 THEREOF; TO REMOVE THE REPEALER OF JULY 1, 2024, ON THE PROVISION  
12 OF LAW RELATING TO EXPENSES OF THE AGENCY AND FEES COLLECTED; TO  
13 REMOVE THE REQUIREMENT FOR A HEARING, AND PENALTY FOR FAILURE TO  
14 APPEAR FOR A HEARING; TO PROVIDE THE COURT WHERE THE ATTORNEY  
15 GENERAL MAY BRING AN ACTION TO ENFORCE THIS ACT; TO PROVIDE FOR  
16 THE UTILIZATION OF A SINGLE DO NOT CALL REGISTRY; TO CLARIFY THAT  
17 THE DO NOT CALL REGISTRY IS A FEDERAL REGISTRY; TO BRING FORWARD  
18 SECTIONS 77-3-701, 77-3-703, 77-3-711, 77-3-719, 77-3-723 AND  
19 77-3-729, WHICH RELATE TO THE MISSISSIPPI TELEPHONE SOLICITATION  
20 ACT, FOR PURPOSES OF POSSIBLE AMENDMENT; TO BRING FORWARD SECTIONS  
21 77-3-601, 77-3-603, 77-3-605, 77-3-607, 77-3-609, 77-3-611,  
22 77-3-613, 77-3-615, 77-3-617 AND 77-3-619, MISSISSIPPI CODE OF  
23 1972, WHICH RELATE TO UNSOLICITED RESIDENTIAL TELEPHONIC SALES  
24 CALLS, FOR PURPOSES OF POSSIBLE AMENDMENT; TO BRING FORWARD  
25 SECTIONS 77-3-801, 77-3-803, 77-3-805, 77-3-807 AND 77-3-809,  
26 MISSISSIPPI CODE OF 1972, WHICH RELATE TO THE CALLER ID  
27 ANTI-SPOOFING ACT, FOR PURPOSES OF POSSIBLE AMENDMENT; TO BRING  
28 FORWARD SECTION 23-15-875, MISSISSIPPI CODE OF 1972, WHICH RELATES  
29 TO LANGUAGE UTTERED OR PUBLISHED REGARDING THE INTEGRITY OF A  
30 CANDIDATE FOR OFFICE, FOR PURPOSES OF POSSIBLE AMENDMENT; AND FOR  
31 RELATED PURPOSES.

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



33           SECTION 1. (1) All positions, duties and functions of the  
34 Mississippi Public Service Commission that are substantially  
35 involved with the Mississippi No Call Program, and/or the  
36 No-Call list, database or registry, shall be transferred to the  
37 Mississippi Attorney General.

38           Any person whose position was transferred to the Attorney  
39 General in this section shall be given first priority to be  
40 employed in that position by the Attorney General.

41           (2) All records, property, and contractual rights and  
42 obligations of, and unexpended balances of appropriations and any  
43 other allocations to, the Public Service Commission that relate to  
44 positions, duties and functions that are substantially involved  
45 with the Mississippi No Call Program, and/or the No-Call list,  
46 database or registry, shall be transferred to the Attorney  
47 General.

48           The State Fiscal Officer shall transfer to the Attorney  
49 General all funds that are allocated to the Public Service  
50 Commission for the purpose of implementing or administering the  
51 Mississippi No Call Program, and/or the No-Call list, database or  
52 registry, in House Bill 1620, 2023 Regular Session, and such funds  
53 shall be used by the Attorney General during fiscal year 2024,  
54 under the same terms and conditions as specified for those funds  
55 in House Bill 1620, 2023 Regular Session.

56           The Public Service Commission shall assist the Attorney  
57 General with the greatest degree of cooperation to carry out the



58 intent and purpose of this act and to accomplish an orderly  
59 transition.

60 **SECTION 2.** Section 77-3-705, Mississippi Code of 1972, is  
61 amended as follows:

62 77-3-705. For the purposes of this article, the following  
63 words and terms shall have the meanings ascribed in this section  
64 unless the context clearly indicates otherwise:

65 (a) "Consumer" means a person or business that receives  
66 a telephone call or text message from a telephone solicitor.

67 (b) "Caller identification service" means a type of  
68 telephone service which permits a telephone subscriber to view the  
69 telephone number and name of the person or entity making an  
70 incoming telephone call or text message.

71 (c) "Telephone solicitor" means any person, firm,  
72 entity, organization, partnership, association, corporation,  
73 charitable entity, or a subsidiary or affiliate thereof, who  
74 engages in any type of telephone solicitation on his or her own  
75 behalf or through representatives, independent contractors,  
76 salespersons, agents, automated dialing systems, text messaging  
77 systems, or any other machines or other individuals or systems.

78 (d) "Telephone solicitation" means any voice or text  
79 message communication over the telephone line or cellular network  
80 of a consumer for the purpose of:

81 (i) Encouraging the purchase or rental of, or  
82 investment in, property;



83 (ii) Soliciting a sale of any consumer goods or  
84 services, or an extension of credit for consumer goods or  
85 services;

86 (iii) Soliciting any other item of value,  
87 pecuniary or otherwise, regardless of whether a sales presentation  
88 is made; or

89 (iv) Soliciting a charitable contribution of money  
90 or property.

91 \* \* \*

92 ( \* \* \*e) "Doing business in this state" refers to  
93 businesses which conduct telephone solicitations from any location  
94 to consumers located in this state.

95 ( \* \* \*f) "Consumer goods or services" means any real  
96 property or any tangible or intangible personal property which is  
97 normally used for personal, family or household purposes,  
98 including, without limitation, any property intended to be  
99 attached to, or installed in, any real property, and any services  
100 related to the property.

101 ( \* \* \*g) "Established business relationship" means a  
102 prior or existing relationship formed by a voluntary two-way  
103 communication between a person or entity and a consumer, with or  
104 without an exchange of consideration, on the basis of an inquiry,  
105 application, purchase or transaction by the consumer, which  
106 relationship is currently existing or was terminated within six  
107 (6) months of the telephone solicitation; however, the act of



108 purchasing consumer goods or services under an extension of credit  
109 does not create an existing business relationship between the  
110 consumer and the entity extending credit to the consumer for such  
111 purchase. The term does not include the situation wherein the  
112 consumer has merely been subject to a telephone solicitation by or  
113 at the behest of the telephone solicitor within the six (6) months  
114 immediately preceding the contemplated telephone solicitation.

115 ( \* \* \*h) "Charitable organization" means any person or  
116 entity holding itself out to be established for any benevolent,  
117 educational, philanthropic, humane, scientific, patriotic, social  
118 welfare or advocacy, public health, environmental or conservation,  
119 civic or other eleemosynary purpose or for the benefit of law  
120 enforcement personnel, firefighters, or any other persons who  
121 protect the public safety, or for any other purpose where a  
122 charitable appeal is the basis of the solicitation.

123 ( \* \* \*i) "Sales presentation" means attempting to  
124 obtain something of value, pecuniary or otherwise, regardless of  
125 whether consideration is or is expected to be exchanged.

126 (j) "Do Not Call Registry" means the registry created and  
127 maintained by the Federal Trade Commission pursuant to the  
128 Telemarketing Sales Rule or any other telemarketing registry  
129 created by the federal government, or the prior registry created  
130 by the Mississippi Public Service Commission.

131 (k) "Attorney General" means the Attorney General of the  
132 State of Mississippi.



133           **SECTION 3.** Section 77-3-707, Mississippi Code of 1972, is  
134 amended as follows:

135           77-3-707. (1) Except as otherwise provided pursuant to  
136 Section 77-3-709 or 77-3-711, a telephone solicitor may not make  
137 or cause to be made any telephone solicitation to any consumer in  
138 this state unless the telephone solicitor has \* \* \* obtained the  
139 "no-calls" database directly from \* \* \* the Federal Trade  
140 Commission or other federal agency.

141           (2) Except as otherwise provided pursuant to Section  
142 77-3-709 or 77-3-711, a telephone solicitor may not make or cause  
143 to be made any telephone solicitation to any consumer in this  
144 state who has given notice to the \* \* \* federal government, or  
145 given notice to the Public Service Commission prior to July 1,  
146 2023, of his or her objection to receiving telephone  
147 solicitations.

148           \* \* \*

149           ( \* \* \* 3) Each local exchange company and each competing  
150 local exchange carrier shall provide written notification on a  
151 semiannual basis to each of its consumers of the opportunity to  
152 provide notification to the \* \* \* Federal Trade Commission, or  
153 other entity as designed by federal law, that the consumer objects  
154 to receiving telephone solicitations. The notification must be  
155 disseminated at the option of the carrier, by television, radio or  
156 newspaper advertisements, written correspondence, bill inserts or  
157 messages, a publication in the consumer information pages of the



158 local telephone directory, or any other method not expressly  
159 prohibited by the \* \* \* Attorney General.

160 \* \* \*

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

163 77-3-709. The \* \* \* Attorney General, in \* \* \* his or her  
164 discretion, may allow telephone solicitors to make telephone  
165 solicitations without requiring them to purchase the "no-calls"  
166 database, and regardless of whether a telephone solicitation may  
167 be made to a consumer who has given notice of his objection to  
168 receiving such solicitations, provided that it adopts a written  
169 policy incorporating the following criteria:

170 (a) The telephone solicitor must demonstrate to  
171 the \* \* \* Attorney General that its proposed telephone  
172 solicitation is reasonably related to an established business  
173 relationship as defined in Section 77-3-705(h), or is being made  
174 in response to an invitation or notice from a consumer which  
175 clearly signifies that he is open to a contact being initiated;

176 (b) The telephone solicitation is to be made by a  
177 person or entity for the purpose of soliciting a contribution or  
178 donation to a bona fide nonprofit corporation, regardless of  
179 whether consumer goods or services will be provided to the  
180 consumer in return for the contribution or donation; or

181 (c) The consumer will not be telephoned for a telephone  
182 solicitation as defined in Section 77-3-705(d), but he will be



183 telephoned for a bona fide religious or charitable purpose,  
184 including an invitation to attend an event or a request for a  
185 contribution or donation.

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

190 In making its determination of whether to allow a telephone  
191 solicitation to be made under the policy which will include the  
192 limitations set forth in this section, the \* \* \* Attorney General  
193 shall exercise due care in investigating previous conduct of the  
194 telephone solicitor seeking such authority. The \* \* \* Attorney  
195 General may deny any telephone solicitor the privilege of making  
196 telephone solicitations under this section, notwithstanding that  
197 any of the criteria set forth in this section have been met.

198 **SECTION 5.** Section 77-3-713, Mississippi Code of 1972, is  
199 amended as follows:

200 77-3-713. All telephone solicitors must register with  
201 the \* \* \* Attorney General before conducting any telephone  
202 solicitations in the State of Mississippi.

203 **SECTION 6.** Section 77-3-715, Mississippi Code of 1972, is  
204 amended as follows:

205 77-3-715. The \* \* \* Attorney General may promulgate rules  
206 and regulations necessary to effectuate this article, including,  
207 but not limited to, the following:





208 \* \* \*

209 ( \* \* \*a) The methods by which a notice of objection  
210 becomes effective and the effect of a change of telephone number  
211 on the notice;

212 \* \* \*

213 ( \* \* \*b) The process by which telephone solicitors  
214 must register with the \* \* \* Attorney General for the purpose of  
215 conducting telephonic solicitations in the state;

216 \* \* \*

217 ( \* \* \*c) The establishment of a written policy which  
218 clearly articulates the circumstances under which the \* \* \*  
219 Attorney General, in \* \* \* his or her discretion, may allow  
220 exceptions to the provisions of this article pursuant to Section  
221 77-3-703; and

222 ( \* \* \*d) All other matters relating to the database  
223 that the \* \* \* Attorney General deems necessary.

224 **SECTION 7.** Section 77-3-717, Mississippi Code of 1972, is  
225 amended as follows:

226 77-3-717. If the Federal Trade Commission establishes a  
227 single national database of telephone numbers of consumers who  
228 object to receiving telephone solicitations, the \* \* \* Attorney  
229 General may utilize the single national database \* \* \* for  
230 enforcement in the State of Mississippi \* \* \*. \* \* \* The \* \* \*  
231 Attorney General shall make available the state's database of  
232 telephone numbers of consumers who object to receiving telephone



233 solicitations to the Federal Trade Commission for inclusion in the  
234 national database.

235 **SECTION 8.** Section 77-3-721, Mississippi Code of 1972, is  
236 amended as follows:

237 77-3-721. All fees collected under the provisions of this  
238 article shall be deposited into a special fund which is created in  
239 the State Treasury to be expended by the \* \* \* Attorney General  
240 for the implementation and administration of this article. From  
241 and after July 1, 2016, the expenses of \* \* \* the Attorney General  
242 to implement the Mississippi Telephone Solicitation Act shall be  
243 defrayed by appropriation from the State General Fund, and all  
244 user charges and fees authorized under this article shall be  
245 deposited into the State General Fund as authorized by law and as  
246 determined by the State Fiscal Officer.

247 \* \* \*

248 **SECTION 9.** Section 77-3-725, Mississippi Code of 1972, is  
249 amended as follows:

250 77-3-725. The \* \* \* Attorney General may investigate alleged  
251 violations and initiate proceedings relative to a violation of  
252 this article or any rules and regulations promulgated pursuant to  
253 this article. Such proceedings include, without limitation,  
254 proceedings to issue a cease and desist order \* \* \*. Any  
255 telephone solicitor found to have violated this article, pursuant  
256 to \* \* \* an investigation or by default, may be subject to a civil  
257 penalty not to exceed Ten Thousand Dollars (\$10,000.00) for each



258 violation to be assessed and collected by the \* \* \* Attorney  
259 General. Each telephonic communication shall constitute a  
260 separate violation.

261 All penalties collected by the \* \* \* Attorney General shall  
262 be deposited in the special fund created under Section 77-3-721,  
263 or as otherwise authorized by law for the administration of this  
264 article.

265 The \* \* \* Attorney General may issue subpoenas, require the  
266 production of relevant documents, administer oaths, conduct  
267 hearings, and do all things necessary in the course of  
268 investigating, determining and adjudicating an alleged violation.

269 The remedies, duties, prohibitions and penalties set forth  
270 under this article shall not be exclusive and shall be in addition  
271 to all other causes of action, remedies and penalties provided by  
272 law \* \* \*.

273 **SECTION 10.** Section 77-3-727, Mississippi Code of 1972, is  
274 amended as follows:

275 77-3-727. Any person who has received a telephone  
276 solicitation in violation of this article, or any rules and  
277 regulations promulgated pursuant to this article, may file a  
278 complaint with the \* \* \* Attorney General. The complaint will be  
279 processed pursuant to complaint procedures established by  
280 the \* \* \* Attorney General.

281 **SECTION 11.** Section 77-3-731, Mississippi Code of 1972, is  
282 amended as follows:



283           77-3-731. The \* \* \* Attorney General is granted personal  
284 jurisdiction over any telephone solicitor, whether a resident or a  
285 nonresident, \* \* \* for the purpose of administering this article.  
286 The \* \* \* Attorney General is granted personal jurisdiction over  
287 any nonresident telephone solicitor, its executor, administrator,  
288 receiver, trustee or any other appointed representative of such  
289 nonresident as to an action or proceeding authorized by this  
290 article or any rules and regulations promulgated pursuant to this  
291 article as authorized by Section 13-3-57, and also upon any  
292 nonresident, his or her executor, administrator, receiver, trustee  
293 or any other appointed representative of such nonresident who has  
294 qualified under the laws of this state to do business herein. The  
295 Attorney General may bring an action to enforce this act in the  
296 Chancery Court of Hinds County, Mississippi, First Judicial  
297 District, or in the Chancery Court of the county where a defendant  
298 resides or has their principal place of business. Service of  
299 summons and process upon the alleged violator of this article  
300 shall be had or made as is provided by the Mississippi Rules of  
301 Civil Procedure.

302           **SECTION 12.** Section 77-3-733, Mississippi Code of 1972, is  
303 amended as follows:

304           77-3-733. Any party aggrieved by any final order of  
305 the \* \* \* Chancery Court pursuant to this article, or any rules  
306 and regulations promulgated pursuant to this article, shall have  
307 the right of appeal to the \* \* \* Supreme Court of Mississippi.



308           **SECTION 13.** Section 77-3-735, Mississippi Code of 1972, is  
309 amended as follows:

310           77-3-735. No provider of telephonic caller identification  
311 service, local exchange telephone company or long distance company  
312 certificated by the \* \* \* Mississippi Public Service Commission  
313 may be held liable for violations of this article committed by  
314 other persons or entities.

315           **SECTION 14.** Section 77-3-701, Mississippi Code of 1972, is  
316 brought forward as follows:

317           77-3-701. This article shall be known and may be cited as  
318 the "Mississippi Telephone Solicitation Act."

319           **SECTION 15.** Section 77-3-703, Mississippi Code of 1972, is  
320 brought forward as follows:

321           77-3-703. (1) The use of the telephone to make all types of  
322 solicitations to consumers is pervasive. This article gives  
323 consumers a tool by which to object to telemarketing calls and  
324 text messages, as these communications can amount to a nuisance,  
325 an invasion of privacy, and can create a health and safety risk  
326 for certain consumers who maintain their phone service primarily  
327 for emergency medical situations.

328           (2) Any calls made for political purposes shall be governed  
329 by Section 23-15-875.

330           **SECTION 16.** Section 77-3-711, Mississippi Code of 1972, is  
331 brought forward as follows:

332           77-3-711. The provisions of this article shall not apply to:



333 (a) A person soliciting:  
334 (i) Who does not make the major sales presentation  
335 during the telephone solicitation;  
336 (ii) Without the intent to complete or obtain  
337 provisional acceptance of a sale, a charitable contribution, or  
338 the payment of some other item of value, pecuniary or otherwise,  
339 during the telephone solicitation; or  
340 (iii) Without the intent to complete, and who does  
341 not complete, the sales presentation during the telephone  
342 solicitation, but who completes the sales presentation at a later  
343 face-to-face meeting between the person soliciting and the  
344 prospective purchaser or consumer.

345 (b) A person who is a licensee under Chapter 35, Title  
346 73, Mississippi Code of 1972, who is a resident of the State of  
347 Mississippi, and whose telephone solicitation is for the sole  
348 purpose of selling, exchanging, purchasing, renting, listing for  
349 sale or rent or leasing real estate in connection with his real  
350 estate license and not in conjunction with any other offer.

351 (c) A motor vehicle dealer as that term is defined in  
352 Section 63-17-55, who is a resident of the State of Mississippi  
353 and who maintains a current motor vehicle dealer's license issued  
354 by the Mississippi Motor Vehicle Commission, whose telephone  
355 solicitation is for the sole purpose of selling, offering to sell,  
356 soliciting or advertising the sale of motor vehicles in connection



357 with his motor vehicle dealer's license and not in conjunction  
358 with any other offer.

359 (d) An agent as that term is defined in Section 83-17-1  
360 whose telephone solicitation is for the sole purpose of  
361 soliciting, consulting, advising, or adjusting in the business of  
362 insurance.

363 (e) A broker-dealer, agent, or investment advisor  
364 registered under Chapter 71, Title 75, Mississippi Code of 1972,  
365 whose telephone solicitation is for the sole purpose of effecting  
366 or attempting to effect the purchase or sale of securities or has  
367 the purpose of providing or seeking to provide investment or  
368 financial advice.

369 (f) A person calling on behalf of a charitable  
370 organization which is registered under Chapter 11, Title 79,  
371 Mississippi Code of 1972, whose telephone solicitation is for the  
372 sole purpose of soliciting for the charitable organization and who  
373 receives no compensation for his activities on behalf of the  
374 organization.

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

379 (h) A person calling on behalf of any supervised  
380 financial institution or parent, subsidiary or affiliate thereof.  
381 As used in this section, "supervised financial institution" means



382 any commercial bank, trust company, savings and loan association,  
383 mutual savings bank, credit union, industrial loan company, small  
384 loan company, consumer finance lender, commercial finance lender  
385 or insurer, provided that the institution has a physical office  
386 located in the State of Mississippi and is subject to supervision  
387 by an official or agency of the State of Mississippi or of the  
388 United States.

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

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

396 **SECTION 17.** Section 77-3-719, Mississippi Code of 1972, is  
397 brought forward as follows:

398 77-3-719. Information contained in the database established  
399 under this article may be used and accessed only for the purpose  
400 of compliance with this article and shall not be otherwise subject  
401 to public inspection or disclosure.

402 **SECTION 18.** Section 77-3-723, Mississippi Code of 1972, is  
403 brought forward as follows:

404 77-3-723. (1) Any person or entity who makes an authorized  
405 telephone solicitation to a consumer in this state shall announce  
406 clearly, at the beginning of each call, his or her name, the





407 company he or she represents and the purpose of the call. Such  
408 calls may only be made between the hours of 8:00 a.m. and 8:00  
409 p.m. Central Standard Time. No telephone solicitations may be  
410 made on a Sunday. For purposes of this provision, an "authorized  
411 telephone solicitation" means a solicitation that is made: (a) to  
412 a consumer who is not listed on the most current "no-calls"  
413 database; (b) by a telephone solicitor who has been authorized to  
414 make such solicitations under the provisions of Section 77-3-709;  
415 or (c) by a telephone solicitor who is exempt from this article  
416 under the provisions of Section 77-3-711.

417 (2) A person or entity who makes a telephone solicitation to  
418 a consumer in this state may not utilize knowingly any method that  
419 blocks or otherwise circumvents the consumer's use of a caller  
420 identification service, nor may the person or entity use an  
421 automated dialing system or any like system that uses a recorded  
422 voice message to communicate with the consumer unless the person  
423 or entity has an established business relationship with the  
424 consumer and uses the recorded voice message to inform the  
425 consumer about a new product or service.

426 **SECTION 19.** Section 77-3-729, Mississippi Code of 1972, is  
427 brought forward as follows:

428 77-3-729. It shall be a defense in any action or proceeding  
429 brought under Section 77-3-725 or 77-3-727 that the defendant has  
430 established and implemented, with due care, reasonable practices



431 and procedures to effectively prevent telephone solicitations in  
432 violation of this article.

433         **SECTION 20.** Section 77-3-601, Mississippi Code of 1972, is  
434 brought forward as follows:

435         77-3-601. As used in this article:

436             (a) "Telephonic sales call" means a call made by a  
437 telephone solicitor to a consumer for the purpose of soliciting a  
438 sale of any consumer goods or services, or for the purpose of  
439 soliciting an extension of credit for consumer goods or services,  
440 or for the purpose of obtaining information or an extension of  
441 credit for these purposes.

442             (b) "Consumer goods or services" means any real  
443 property or any tangible or intangible personal property which is  
444 normally used for personal, family or household purposes,  
445 including, without limitation, any property intended to be  
446 attached to or installed in any real property regardless of  
447 whether it is attached or installed, as well as cemetery lots and  
448 time-share estates, and any services related to the property.

449             (c) "Unsolicited telephonic sales call" means a  
450 telephonic sales call other than a call made:

451                     (i) In response to an express request of the  
452 person called;

453                     (ii) In connection with an existing debt or  
454 contract, payment or performance which has not been completed at  
455 the time of the call; or



456 (iii) To any person with whom the telephone  
457 solicitor has an established business relationship.

458 (d) "Consumer" means an actual or prospective  
459 purchaser, lessee or recipient of consumer goods or services.

460 (e) "Merchant" means a person who, directly or  
461 indirectly, offers or makes available to consumers any consumer  
462 goods or services.

463 (f) "Telephone solicitor" means any natural person,  
464 firm, organization, partnership, association, corporation, or a  
465 subsidiary or affiliate thereof, doing business in this state, who  
466 makes or causes to be made a telephonic sales call.

467 (g) "Doing business in this state" refers to businesses  
468 who conduct telephonic sales calls from a location in Mississippi  
469 or from other states or nations to consumers located in  
470 Mississippi.

471 (h) "Established business relationship" means a prior  
472 or existing relationship formed by a voluntary two-way  
473 communication between a person or entity and a consumer with or  
474 without an exchange of consideration, on the basis of an inquiry,  
475 application, purchase or transaction by such person or entity,  
476 which relationship has not been previously terminated by either  
477 party.

478 **SECTION 21.** Section 77-3-603, Mississippi Code of 1972, is  
479 brought forward as follows:



480 77-3-603. Any telephone solicitor who makes an unsolicited  
481 telephonic sales call to a residential telephone number shall:

482 (a) Make calls between the hours of 8:00 a.m. and 9:00  
483 p.m., Central Standard Time, Monday through Friday, and between  
484 the hours of 8:00 a.m. and 9:00 p.m. on Saturdays (no calls shall  
485 be made on Sundays);

486 (b) Identify himself or herself by his or her true  
487 first and last names and the business on whose behalf he or she is  
488 soliciting immediately upon making contact by telephone with the  
489 person who is the object of the telephone solicitation; and

490 (c) Discontinue the call immediately if at any time  
491 during the conversation the person being solicited expresses  
492 disinterest in continuing the call or sales presentation.

493 **SECTION 22.** Section 77-3-605, Mississippi Code of 1972, is  
494 brought forward as follows:

495 77-3-605. Any telephone solicitor shall apply for a  
496 certificate of registration from the Office of the Attorney  
497 General as a condition for doing business in this state. The  
498 certificate of registration shall be in a form as prescribed by  
499 the Attorney General.

500 The application for a certificate of registration shall be  
501 accompanied by a surety bond in the penal sum of Seventy-five  
502 Thousand Dollars (\$75,000.00) with conditions and in a form  
503 prescribed by the Attorney General. The bond shall provide for  
504 the indemnification of any person suffering loss as the result of



505 any fraud, misrepresentation or violation of Sections 77-3-601  
506 through 77-3-619 by the principal. The term of the bond shall be  
507 continuous, but it shall be subject to cancellation by the surety  
508 in the manner described in this section. The surety may terminate  
509 the bond upon giving a sixty-day written notice to the principal  
510 and to the Attorney General, but the liability of the surety for  
511 acts of the principal and its agents shall continue during the  
512 sixty (60) days of cancellation notice. The notice does not  
513 absolve the surety from liability which accrues before the  
514 cancellation becomes final but which is discovered after that date  
515 and which may have arisen at any time during the term of the bond.  
516 Unless the bond is replaced by that of another surety before the  
517 expiration of the sixty (60) days' notice of cancellation, the  
518 certificate of registration shall be suspended. Any person  
519 required pursuant to this section to file a bond with an  
520 application for a certificate of registration may file, in lieu  
521 thereof, cash, a certificate of deposit, or government bonds in  
522 the amount of Seventy-five Thousand Dollars (\$75,000.00). Such  
523 deposit is subject to the same terms and conditions as are  
524 provided for in the surety bond required herein. Any interest or  
525 earnings on such deposits are payable to the depositor.

526       **SECTION 23.** Section 77-3-607, Mississippi Code of 1972, is  
527 brought forward as follows:



528           77-3-607. (1) A contract made pursuant to a telephonic  
529 sales call is not valid and enforceable against a consumer unless  
530 made in compliance with this section.

531           (2) A contract made pursuant to a telephonic sales call  
532 shall:

533                   (a) Be reduced to writing and signed by the consumer.

534                   (b) Comply with all other applicable laws and rules.

535                   (c) Match the description of goods or services as  
536 principally used in the telephone solicitations.

537                   (d) Contain the name, address, and telephone number of  
538 the seller, the total price of the contract and a detailed  
539 description of the goods or services being sold.

540                   (e) Contain, in bold, conspicuous type, immediately  
541 preceding the signature, the following statement:

542                   **"YOU ARE NOT OBLIGATED TO PAY ANY MONEY UNLESS YOU SIGN THIS**  
543                                   **CONTRACT AND RETURN IT TO THE SELLER."**

544                   (f) Include in its terms any oral or written  
545 representations made by the telephone solicitor to the consumer in  
546 connection with the transaction.

547           (3) The provisions of this section do not apply to  
548 contractual sales regulated under other sections of the  
549 Mississippi statutes and to contractual sales of companies which  
550 provide telecommunication services and reach binding agreements by  
551 telephone for these services.



552 (4) A merchant who engages a telephone solicitor to make or  
553 cause to be made a telephonic sales call shall not make or submit  
554 any charge to the consumer's credit card account until after the  
555 merchant receives from the consumer a copy of the contract which  
556 complies with this section.

557 (5) The provisions of this section do not apply to a  
558 transaction:

559 (a) Made in accordance with prior negotiations in the  
560 course of a visit by the consumer to a merchant operating a retail  
561 business establishment which has a fixed permanent location and  
562 where consumer goods are displayed or offered for sale on a  
563 continuing basis;

564 (b) In which the consumer may obtain a full refund for  
565 the return of undamaged and unused goods or a cancellation of  
566 services notice to the seller within seven (7) days after receipt  
567 by the consumer, and the seller will process the refund within  
568 thirty (30) days after receipt of the returned merchandise by the  
569 consumer;

570 (c) In which the consumer purchases goods or services  
571 after an examination of a television, radio, or print  
572 advertisement or a sample, brochure, or catalog of the merchant  
573 that contains the name, address and telephone number of the  
574 merchant; a description of the goods or services being sold; and  
575 any limitations or restrictions that apply to the offer; or



576 (d) In which the merchant is a bona fide charitable  
577 organization ruled tax-exempt by the Internal Revenue Service.

578 **SECTION 24.** Section 77-3-609, Mississippi Code of 1972, is  
579 brought forward as follows:

580 77-3-609. The provisions of Sections 77-3-601 through  
581 77-3-619 shall not apply to:

582 (a) A person engaging in commercial telephone  
583 solicitation where the solicitation is an isolated transaction and  
584 not done in the course of a pattern of repeated transactions of  
585 like nature.

586 (b) A person making calls for religious, charitable,  
587 political, education or other noncommercial purposes, or a person  
588 soliciting for a nonprofit corporation if that corporation is  
589 properly registered as such with the Secretary of State and is  
590 included within the exemption of Section 501(c)(3) or Section  
591 501(c)(6) of the Internal Revenue Code.

592 (c) A person soliciting:

593 (i) Without the intent to complete or obtain  
594 provisional acceptance of a sale during the telephone  
595 solicitation;

596 (ii) Who does not make the major sales  
597 presentation during the telephone solicitation; or

598 (iii) Without the intent to complete, and who does  
599 not complete, the sales presentation during the telephone  
600 solicitation, but who completes the sales presentation at a later





601 face-to-face meeting between the seller and the prospective  
602 purchaser. However, if a seller, directly following a telephone  
603 solicitation, causes an individual whose primary purpose it is to  
604 go to the prospective purchaser to collect the payment or deliver  
605 any item purchased, this exemption does not apply.

606 (d) Any licensed securities, commodities, or  
607 investments broker, dealer or investment advisor, when soliciting  
608 within the scope of his license. As used in this section,  
609 "licensed securities, commodities, or investments broker, dealer  
610 or investment advisor" means a person subject to license or  
611 registration as such by the Securities and Exchange Commission, by  
612 the National Association of Securities Dealers or other  
613 self-regulatory organization as defined by the Securities Exchange  
614 Act of 1934 (15 USC Section 781), or by an official or agency of  
615 this state or of any state of the United States.

616 (e) Any licensed associated person of a securities,  
617 commodities, or investments broker, dealer or investment advisor,  
618 when soliciting within the scope of his license. As used in this  
619 section, "licensed associated person of a securities, commodities,  
620 or investment broker, dealer or investment advisor" means any  
621 associated person registered or licensed by the National  
622 Association of Securities Dealers or other self-regulatory  
623 organization as defined by the Securities Exchange Act of 1934 (15  
624 USC Section 781) or by an official or agency of this state or of  
625 any state of the United States.



626 (f) A person primarily soliciting the sale of a  
627 newspaper, magazine or periodical of general circulation by its  
628 publisher, or by the publisher's agent through written agreement.

629 (g) A book, video or record club or contractual plan or  
630 arrangement:

631 (i) Under which the seller provides the consumer  
632 with a form which the consumer may use to instruct the seller not  
633 to ship the offered merchandise;

634 (ii) Which is regulated by the Federal Trade  
635 Commission trade regulation concerning "use of negative option  
636 plans by sellers in commerce"; or

637 (iii) Which provides for the sale of books,  
638 records or videos which are not covered under paragraphs (i) or  
639 (ii), including continuity plans, subscription arrangements,  
640 standing order arrangements, supplements and series arrangements  
641 under which the seller periodically ships merchandise to a  
642 consumer who has consented in advance to receive such merchandise  
643 on a periodic basis.

644 (h) Any supervised financial institution or parent,  
645 subsidiary or affiliate thereof. As used in this section,  
646 "supervised financial institution" means any commercial bank,  
647 trust company, savings and loan association, mutual savings bank,  
648 credit union, industrial loan company, consumer finance lender,  
649 commercial finance lender or insurer, provided that the



650 institution is subject to supervision by an official or agency of  
651 this state, of any state or of the United States.

652 (i) Any licensed insurance or real estate broker,  
653 agent, customer representative or solicitor when soliciting within  
654 the scope of his license. As used in this section, "licensed  
655 insurance or real estate broker, agent, customer representative or  
656 solicitor" means any insurance or real estate broker, agent,  
657 customer representative or solicitor licensed by an official or  
658 agency of this state or of any state of the United States.

659 (j) A person soliciting the sale of services provided  
660 by a cable television system operating under authority of a  
661 franchise or permit.

662 (k) A person who solicits sales by periodically  
663 publishing and delivering a catalog of the seller's merchandise to  
664 prospective purchasers, if the catalog:

665 (i) Contains a written description or illustration  
666 of each item offered for sale;

667 (ii) Includes the business address or home office  
668 address of the seller;

669 (iii) Includes at least twenty-four (24) pages of  
670 written material and illustrations and is distributed in more than  
671 one (1) state; or

672 (iv) Has an annual circulation by mailing of not  
673 less than two hundred fifty thousand (250,000).



674 (l) A person who solicits contracts for the maintenance  
675 or repair of goods previously purchased from the person making the  
676 solicitation or on whose behalf the solicitation is made.

677 (m) A telephone company, or its subsidiary or agents,  
678 or a business which is regulated by the Mississippi Public Service  
679 Commission, or a Federal Communications Commission licensed  
680 cellular telephone company or other bona fide radio  
681 telecommunication services provider.

682 (n) Any publicly traded corporation which has  
683 securities registered with the Securities and Exchange Commission  
684 which are a reported security within the meaning of subparagraph  
685 (4) of Regulation Section 240.11a3-1, (a), under the Securities  
686 Exchange Act of 1934, or which is exempt from registration under  
687 subparagraph (A), (B), (C), (E), (F), (G) or (H) of paragraph (2)  
688 of subsection (g) of Section 12 of the Securities Exchange Act of  
689 1934 (15 USC Section 781), or any subsidiary of such a  
690 corporation.

691 (o) A business soliciting exclusively the sale of  
692 telephone answering services, provided that the telephone  
693 answering services will be supplied by the solicitor.

694 (p) A person soliciting a transaction regulated by the  
695 Commodity Futures Trading Commission if the person is registered  
696 or temporarily licensed for this activity with the Commodity  
697 Futures Trading Commission under the Commodity Exchange Act (7 USC



698 Section 1 et seq.) and the registration or license has not expired  
699 or been suspended or revoked.

700 (q) A person soliciting the sale of food or produce if  
701 the solicitation neither intends to result in, or actually results  
702 in, a sale which costs the purchaser in excess of One Hundred  
703 Dollars (\$100.00).

704 (r) A person soliciting business from prospective  
705 consumers who have an established business relationship with, or  
706 who have previously purchased from, the business enterprise for  
707 which the solicitor is calling, if the solicitor is operating  
708 under the same exact business name.

709 (s) A person who has been operating, for at least one  
710 (1) year, a retail business establishment under the same name as  
711 that used in connection with telemarketing, and both of the  
712 following occur on a continuing basis:

713 (i) Either products are displayed and offered for  
714 sale, or services are offered for sale and provided at the  
715 business establishment; and

716 (ii) A majority of the seller's business involves  
717 the buyer obtaining such products or services at the seller's  
718 location.

719 (t) Any telephone marketing service company which  
720 provides telemarketing sales services under contract to sellers  
721 and has been operating continuously for at least five (5) years  
722 under the same business name and seventy-five percent (75%) of its



723 contracts are performed on behalf of persons exempted from  
724 Sections 77-3-601 through 77-3-619.

725 **SECTION 25.** Section 77-3-611, Mississippi Code of 1972, is  
726 brought forward as follows:

727 77-3-611. The Attorney General shall investigate any  
728 complaints received concerning violations of Sections 77-3-601  
729 through 77-3-619. If, after investigating any complaint, the  
730 Attorney General finds that there has been a violation of Sections  
731 77-3-601 through 77-3-619, the Attorney General may bring an  
732 action to impose a civil penalty and to seek other relief,  
733 including injunctive relief, as the court deems appropriate  
734 against the telephone solicitor. The civil penalty shall not  
735 exceed Ten Thousand Dollars (\$10,000.00) per violation and shall  
736 be deposited in the State General Fund, unallocated. This civil  
737 penalty may be recovered in any action brought under Sections  
738 77-3-601 through 77-3-619 by the Attorney General. Alternatively,  
739 the Attorney General may terminate any investigation or action  
740 upon agreement by the person to pay a stipulated civil penalty.  
741 The Attorney General or the court may waive any civil penalty if  
742 the person has previously made full restitution or reimbursement  
743 or has paid actual damages to the consumers who have been injured  
744 by the violation.

745 **SECTION 26.** Section 77-3-613, Mississippi Code of 1972, is  
746 brought forward as follows:



747           77-3-613. In any civil proceeding alleging a violation of  
748 Sections 77-3-601 through 77-3-619, the burden of proving an  
749 exemption or an exemption from a definition is upon the person  
750 claiming it.

751           **SECTION 27.** Section 77-3-615, Mississippi Code of 1972, is  
752 brought forward as follows:

753           77-3-615. (1) In any civil litigation resulting from a  
754 transaction involving a violation of Sections 77-3-601 through  
755 77-3-619, the prevailing party, after judgment in the trial court  
756 and exhaustion of all appeals, if any, shall receive his  
757 reasonable attorney's fees and costs from the nonprevailing party.

758           (2) The attorney for the prevailing party shall submit a  
759 sworn affidavit of his time spent on the case and his costs  
760 incurred for all the motions, hearings, and appeals to the trial  
761 judge who presided over the civil case.

762           (3) The trial judge shall award the prevailing party the sum  
763 of reasonable costs incurred in the action plus a reasonable legal  
764 fee for the hours actually spent on the case as sworn to in an  
765 affidavit.

766           (4) Any award of attorney's fees or costs shall become a  
767 part of the judgment and subject to execution as the law allows.

768           (5) In any civil litigation initiated by the Attorney  
769 General, the court may award to the prevailing party reasonable  
770 attorney's fees and costs if the court finds that there was a  
771 complete absence of a justiciable issue of either law or fact



772 raised by the losing party, or if the court finds bad faith on the  
773 part of the losing party.

774 **SECTION 28.** Section 77-3-617, Mississippi Code of 1972, is  
775 brought forward as follows:

776 77-3-617. The Attorney General shall by rule ensure that  
777 telecommunications companies inform their customers of the  
778 provisions of Sections 77-3-601 through 77-3-619. The  
779 notification may be made by:

780 (a) Annual inserts in the billing statements mailed to  
781 customers; and

782 (b) Conspicuous publication of the notice in the  
783 consumer information pages of the local telephone directories.

784 **SECTION 29.** Section 77-3-619, Mississippi Code of 1972, is  
785 brought forward as follows:

786 77-3-619. The Attorney General is authorized to issue any  
787 necessary rules and regulations in order to carry out the  
788 provisions of Sections 77-3-601 through 77-3-619.

789 **SECTION 30.** Section 77-3-801, Mississippi Code of 1972, is  
790 brought forward as follows:

791 77-3-801. This article may be cited as the "Caller ID  
792 Anti-Spoofing Act."

793 **SECTION 31.** Section 77-3-803, Mississippi Code of 1972, is  
794 brought forward as follows:

795 77-3-803. As used in this article:





796 (a) "Automatic number identification" means a system  
797 that identifies the billing account for a call and includes an  
798 enhanced 911 service capability that enables the automatic display  
799 of the ten-digit number used to place a 911 call from a wire line,  
800 wireless, interconnected VoIP or nontraditional telephone service.

801 (b) "Caller identification information" means  
802 information provided by a caller identification service regarding  
803 the telephone number, or other origination information, of a call  
804 or facsimile transmission made using a telecommunications service  
805 or an interconnected VoIP service, or of a text message sent using  
806 a text-messaging service.

807 (c) "Caller identification service" means any service  
808 or device designed to provide the user of the service or device  
809 with the telephone number of, or other information regarding the  
810 origination of, a call made using a telecommunications service or  
811 interconnected VoIP service. The term includes automatic number  
812 identification services.

813 (d) "Interconnected VoIP service" means an  
814 interconnected Voice over Internet Protocol service that:

815 (i) Enables real-time, two-way voice  
816 communications;

817 (ii) Requires a broadband internet connection from  
818 the user's location;

819 (iii) Requires internet protocol-compatible  
820 customer premises equipment; and



821 (iv) Permits users generally to receive calls that  
822 originate on the public switched telephone network and to  
823 terminate calls to the public switched telephone network.

824 (e) "Place of primary use" means the street address  
825 where a subscriber's use of a telecommunications service or  
826 interconnected VoIP service primarily occurs, which shall be:

827 (i) The residential street address or the primary  
828 business street address of the subscriber or, in the case of a  
829 subscriber of interconnected VoIP service, the subscriber's  
830 registered location; and

831 (ii) Within the licensed service area of the  
832 provider.

833 (f) "Provider" means a person or entity that offers  
834 telecommunications service or interconnected VoIP service.

835 (g) "Registered location" means the most recent  
836 information obtained by an interconnected VoIP service provider  
837 that identifies the physical location of an end user.

838 (h) "Subscriber" means a person:

839 (i) Who subscribes to a caller identification  
840 service in connection with a telecommunications service or an  
841 interconnected VoIP service; and

842 (ii) Whose place of primary use for the service  
843 described in paragraph (h)(i) is located in Mississippi.

844 (i) "Telecommunications service" means the offering of  
845 telecommunications for a fee directly to the public, or to classes



846 of users so as to be effectively available directly to the public,  
847 regardless of the facilities used.

848 **SECTION 32.** Section 77-3-805, Mississippi Code of 1972, is  
849 brought forward as follows:

850 77-3-805. Except as provided in Section 77-3-807, a person  
851 shall not, in connection with any telecommunications service or  
852 interconnected VOIP service, knowingly and with the intent to  
853 defraud or cause harm to another person or to wrongfully obtain  
854 anything of value, cause any caller identification service to  
855 transmit misleading or inaccurate caller identification  
856 information to a subscriber.

857 **SECTION 33.** Section 77-3-807, Mississippi Code of 1972, is  
858 brought forward as follows:

859 77-3-807. This article does not apply to:

860 (a) The blocking of caller identification information.

861 (b) Any law enforcement agency of the federal, state,  
862 county or municipal government.

863 (c) Any intelligence or security agency of the federal  
864 government.

865 (d) A telecommunications, broadband or  
866 voice-over-Internet service provider that is acting solely as an  
867 intermediary for the transmission of telephone service between the  
868 caller and the recipient.

869 **SECTION 34.** Section 77-3-809, Mississippi Code of 1972, is  
870 brought forward as follows:



871           77-3-809. (1) Any person who violates this article shall be  
872 guilty of a misdemeanor and, upon conviction thereof, shall be  
873 subject to a fine of not more than One Thousand Dollars  
874 (\$1,000.00) or shall be imprisoned in the county jail not  
875 exceeding one (1) year, or both.

876           (2) Any violation of this article constitutes an unlawful  
877 trade practice under Section 75-24-5 and, in addition to any  
878 remedies or penalties set forth in this article, shall be subject  
879 to any remedies or penalties available for a violation of that  
880 statute.

881           (3) Any violation of this article constitutes a violation of  
882 the Mississippi Telephone Solicitation Act, Section 77-3-701 et  
883 seq., and in addition to any remedies or penalties provided in  
884 this article, shall be subject to any remedies or penalties  
885 available for a violation of that act.

886           **SECTION 35.** Section 23-15-875, Mississippi Code of 1972, is  
887 brought forward as follows:

888           23-15-875. No person, including a candidate, shall publicly  
889 or privately make, in a campaign then in progress, any charge or  
890 charges reflecting upon the honesty, integrity or moral character  
891 of any candidate, so far as his or her private life is concerned,  
892 unless the charge be in fact true and actually capable of proof;  
893 and any person who makes any such charge shall have the burden of  
894 proof to show the truth thereof when called to account therefor  
895 under any affidavit or indictment against him or her for a



896 violation of this section. Any language deliberately uttered or  
897 published which, when fairly and reasonably construed and as  
898 commonly understood, would clearly and unmistakably imply any such  
899 charge, shall be deemed and held to be the equivalent of a direct  
900 charge.

901           **SECTION 36.** This act shall take effect and be in force from  
902 and after July 1, 2023.

