

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003

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SENATE BILL 799  
Commerce Committee Substitute Adopted 4/16/03

Short Title: Telephone Solicitations/Consent to Charge.

(Public)

Sponsors:

Referred to:

April 3, 2003

A BILL TO BE ENTITLED

AN ACT TO REQUIRE TELEPHONE SOLICITORS, WHEN THE TELEPHONE SOLICITOR HAS PREVIOUSLY OBTAINED AN ACCOUNT NUMBER, TO OBTAIN WRITTEN OR VERBAL CONSENT BEFORE CAUSING A NEW CHARGE TO THE ACCOUNT.

The General Assembly of North Carolina enacts:

**SECTION 1.** Article 1 of Chapter 75 of the General Statutes is amended by adding a new section to read:

**§ 75-30.2. Telephone solicitations; consent required for new charges to previously obtained accounts.**

(a) A telephone solicitor shall not charge or cause a charge to an account holder's account as a result of a previously obtained account number telephone solicitation unless the telephone solicitor first obtains authorization from the account holder for the specific charge discussed during the call.

(b) Authorization under subsection (a) of this section is not effective until the account holder has been advised, clearly and conspicuously, of all of the following information:

- (1) That the telephone solicitor has the account holder's account number.
- (2) That the telephone solicitor is going to charge the account holder's account.
- (3) The specific account that will be charged.
- (4) The specific amount that the account holder's account will be charged.
- (5) The name, address, and telephone number of the person who will be charging the account holder's account.

(c) An account holder's authorization may be in writing or may be given verbally. If the telephone solicitor uses written authorization, the telephone solicitor shall not charge the account holder's account until the account holder's written authorization is received by the telephone solicitor. If the telephone solicitor uses verbal authorization, either the authorization must be audiotaped by the telephone solicitor and

1 the telephone solicitor must advise the account holder that the authorization is being  
2 recorded; or the account holder must disclose the last four digits of the account holder's  
3 account number so long as the telephone solicitor has reasonable procedures in effect to  
4 verify that such digits as provided by the account holder match the last four digits of the  
5 account to be charged. Telephone solicitors shall keep and maintain authorizations  
6 under this subsection for a period of two years and shall make them available to the  
7 account holder upon written request.

8 (d) When a telephone solicitor utilizes a voice response unit, whether inbound or  
9 outbound, an account holder may give verbal authorization or other authorization  
10 provided by a voice response unit as defined in this subsection by providing the last four  
11 digits of the account holder's account number, an account number previously assigned  
12 to the account holder by the telephone solicitor, or an alternate unique identifier that  
13 enables the telephone solicitor to verify or confirm the account holder's authorization, so  
14 long as the information required under subsection (b) of this section is clearly and  
15 conspicuously disclosed to the account holder before the authorization is given. As used  
16 in this subsection, 'voice response unit' means a device that allows a user to provide or  
17 obtain information from a computer system using Touch-Tone input or speech input.

18 (e) The following definitions apply in this section:

19 (1) 'Account' means a credit card, debit card, checking account, savings  
20 account, loan account, telephone service account, utility account, or  
21 other similar account.

22 (2) 'Account holder' means a consumer who owns an account or a  
23 consumer who has authority to cause a charge or debit to an account.

24 (3) 'Authorization' means an account holder providing express consent to  
25 a telephone solicitor or person acting on behalf of the telephone  
26 solicitor to charge or cause to be charged the account holder's account  
27 for the purchase of goods or services.

28 (4) 'Charge' means a charge or debit, or an attempt to charge or debit, an  
29 account, whether by electronic or any other means, if that account can  
30 be charged without the express written authorization of the account  
31 holder to each specific charge or debit. Charge does not include a  
32 charge or debit, or an attempt to charge or debit, a telephone service  
33 account for local or long-distance telecommunications services.

34 (5) 'Goods' or 'services' means goods or services that are normally used for  
35 personal, household, or family purposes.

36 (6) 'Previously obtained account number telephone solicitation' means a  
37 telephone call in which the telephone solicitor attempts to obtain  
38 account holder authorization for a current or future charge without  
39 obtaining the account number from the account holder during the call.  
40 'Previously obtained account number telephone solicitation' does not  
41 include the sale of securities through a telephone call, if the telephone  
42 solicitor is a licensed securities agent or broker in the State. 'Previously  
43 obtained account number telephone solicitation' does not include a  
44 telephone call initiated by an account holder during which the person

1                    receiving the telephone call attempts to sell, offer for sale, or otherwise  
2                    induce the account holder to purchase goods or services. 'Previously  
3                    obtained account number telephone solicitation' does not include a call  
4                    to or from a current customer of the telephone solicitor to renew or  
5                    extend, inquire about or add goods or services if the customer has  
6                    previously provided account information for billing purposes to the  
7                    telephone solicitor and the telephone solicitor clearly and  
8                    conspicuously discloses that such renewal or extension, or additional  
9                    goods or services, will be debited to the same account.

10                  (7) 'Telephone solicitor' has the same meaning as defined in G.S.  
11                  75-30.1."

12                  **SECTION 2.** This act becomes effective October 1, 2003, and applies to  
13 telephone solicitations, as defined in G.S. 75-30.1, made on or after that date.