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CONNECTICUT PROHIBITS UNSOLICITED COMMERCIAL TEXT MESSAGES

The Connecticut legislature recently amended its so-called "do-not-call" law, which generally prohibits telephone solicitors doing business in Connecticut from making certain telephonic sales calls to consumers. The amendments add "text or media messages" to the regulated communications and increase penalties for violation of the law. The amendments were approved May 28, 2014 and take effect on October 1, 2014.

The law generally regulates telephone solicitors doing business in Connecticut that make telephonic sales calls. A "telephonic sales call" means a telephone call made by a telephone solicitor, or a text or media message sent by or on behalf of a telephone solicitor, to a consumer for the purpose of (i) engaging in a marketing or sales solicitation, (ii) soliciting an extension of credit for consumer goods or services or (iii) obtaining information that will or may be used for marketing or sales solicitation or exchange of or extension of credit for consumer goods or services. "Text or media message" means a message that contains written, audio, video or photographic content and is sent electronically to a mobile telephone or mobile electronic device telephone number, but does not include email sent to an email address. "Unsolicited telephonic sales call" means any telephonic sales call other than a telephonic sales call made (i) pursuant to the prior express written consent of the consumer who is called or sent a text or media message, (ii) primarily in connection with an existing debt or contract, payment or performance of which has not been completed at the time of the telephonic sales call or (iii) to an existing customer, unless such customer has stated to the telephone solicitor that such customer no longer wishes to receive the telephonic sales calls of such telephone solicitor.

The law provides for the establishment of a "no sales solicitation calls" list of consumers who do not wish to receive unsolicited telephonic sales calls and, with a few enumerated exceptions, prohibits telephone solicitors from making or causing to be made any unsolicited telephonic sales call to any consumer included in the list if the consumer's name and telephone number or numbers appear on the then current quarterly "no sales solicitation calls" list made available by the department of consumer protection.

The law prohibits, among other things, telephone solicitors from

making or causing to be made any unsolicited telephonic sales call to any consumer for telephone calls, to be received before 9:00 a.m. or after 9:00 p.m. at the consumer's location or, for text or media messages, to be received on the consumer's mobile telephone or mobile electronic device at any time.

Provisions also were added to the law that prohibit telephone solicitors from making or causing to be made an unsolicited, automatically dialed, recorded telephonic sales call to a consumer without such consumer's prior express written consent, which is defined to have the same meaning as under federal law.

Additionally, if a consumer's mobile telephone or mobile electronic device telephone number does not appear on the then current quarterly "no sales solicitation calls" listing, no telephone solicitor may send or cause to be sent a text or media message to such number for the purpose of marketing or sales solicitation of consumer goods, unless such telephone solicitor has received the prior express written consent of the consumer to receive such text or media message.

Finally, the law (i) permits telecommunications companies to send text or media messages (without charge) to existing customers in certain situations, including a wireless emergency alert authorized by federal law, and requires such companies to notify customers of their rights under the law and (ii) raises the penalty for violating the statute from \$11,000 to \$20,000 for each violation.

These types of changes in laws affecting all aspects of consumer credit (*e.g.*, marketing, debt collection, etc.) have been and will continue to be considered at both the state and federal levels as lawmakers attempt to keep pace with changing technologies. □

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