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SOUTH CAROLINA ENACTS TELEPHONE PRIVACY PROTECTION ACT

On May 18, 2018, the South Carolina Governor signed H.B. No. 4628 that repeals the South Carolina telephone solicitation statute and enacts the Telephone Privacy Protection Act ("Act"). The Act regulates telephone solicitations, broadly defined to include the initiation of a telephone call or a text or media message, and establishes a time frame calls may be placed and disclosures that must be made at the outset of calls.

Under the Act, telephone solicitation does not mean a telephone solicitation made to a consumer with:

- (1) That consumer's prior express invitation or permission as evidenced by a signed or electronically signed written agreement stating that the person agrees to be contacted by or on behalf of a specific party and including the telephone number to which they may be placed;
- (2) Whom the person on whose behalf the telephone solicitation is made has an established business relationship; or
- (3) Whom the telephone solicitor making the telephone call or sending a text message has a personal relationship.

The Act narrowly defines "established business relationship" to mean a relationship between the consumer and the person on whose behalf the telephone solicitation call is being made based on the consumer's (i) purchase from or transaction with the person on whose behalf the telephone solicitation is being made within the 18 months immediately preceding the solicitation date or (ii) inquiry or application regarding a property, good or service offered by the person on whose behalf the telephone solicitation is being made within the three months immediately preceding the solicitation date.

The Act also prohibits a telephone solicitor from displaying any South Carolina area code on the recipients call identification system unless the person initiating the telephone solicitation maintains a physical presence in South Carolina.

We routinely advise clients on compliance with both federal and state telemarketing laws. Please contact us with questions or for more information.

✧ *Mike Tomkies and Lindsay Valentine*

LOOKING FOR A MARKETING AND PRIVACY COMPLIANCE RESOURCE? We publish an easy-to-use reference, our **MARKETING AND PRIVACY DIGEST**, that compiles the state laws governing financial privacy, fair credit reporting, telemarketing/automatic dialing and announcing devices, telephone monitoring and recording, electronic signatures and restrictions on the use of social security numbers by financial service providers. Creditors, marketers and servicers should find this resource invaluable to marketing and privacy program development and regulatory compliance. **Contact us for details.**

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