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SENATE FILE 440
BY CONNOLLY

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to telephone solicitations, including
2 establishing certain restrictions on telephone solicitors,
3 providing for registration for persons choosing not to receive
4 certain telephone solicitations, requiring consumer
5 notification of rights, and providing penalties and remedies.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. NEW SECTION. 476B.1 DEFINITIONS.

2 As used in this chapter, unless the context otherwise
3 requires:

4 1. "Consumer" means an actual or prospective purchaser,
5 lessee, or recipient of a consumer good or service.

6 2. "Consumer good or service" means any real property or
7 any tangible or intangible personal property which is normally
8 used for personal, family, or household purposes, including,
9 without limitation, any such property intended to be attached
10 to or installed in any real property without regard to whether
11 it is so attached or installed, as well as cemetery lots and
12 timeshare estates, and any service related to such property.

13 3. "Doing business in this state" means a business that
14 conducts telephone solicitations from a location in this state
15 or from other states or nations to consumers located in this
16 state.

17 4. "Existing business relationship" means an established
18 pattern of activity between a consumer and a merchant,
19 involving an inquiry, application, purchase, or transaction
20 initiated by a consumer regarding products or services offered
21 by a merchant.

22 5. "Merchant" means a person who, directly or indirectly,
23 offers or makes available to a consumer any consumer good or
24 service.

25 6. "Telephone solicitation" means any voice communication,
26 wherever originated, transmitted over a telephone for the
27 purpose of encouraging action on the part of the consumer,
28 including but not limited to any of the following actions:

- 29 a. The purchase or rental of property, goods, or services.
- 30 b. Investment in property, goods, or services.
- 31 c. Soliciting a sale of a consumer good or service.
- 32 d. Offering an extension of credit for a consumer good or
33 service.
- 34 e. Obtaining information that will or may be used for the
35 direct solicitation of a sale of a consumer good or service or

1 an offer of extension of credit for such purpose.

2 f. Soliciting a donation for any group, organization, or
3 purpose.

4 7. "Telephone solicitor" means a person doing business in
5 this state, who makes or causes to be made a telephone
6 solicitation.

7 Sec. 2. NEW SECTION. 476B.2 DO-NOT-CALL LISTING.

8 1. The secretary of state shall contract with a service to
9 maintain a do-not-call list of Iowa telephone subscribers who
10 do not wish to receive telephone solicitations. The contract
11 shall be made in consultation with the consumer protection
12 division of the department of justice, so that all evidentiary
13 issues and other issues related to enforcement are considered.

14 2. A residential, mobile, or telephonic paging device
15 telephone subscriber who does not wish to receive telephone
16 solicitations may register to be included on the do-not-call
17 list contracted for by the secretary of state pursuant to
18 subsection 1.

19 3. A telephone solicitor doing business in Iowa shall
20 obtain a subscription to receive the quarterly updated
21 subscription listings of consumers in Iowa who have registered
22 to be included on the do-not-call list referred to in this
23 section.

24 4. A telephone solicitor shall not call any consumer in
25 Iowa whose name is on the do-not-call list referred to in this
26 section.

27 5. This section shall not apply to the following calls:

28 a. Charitable organizations.

29 b. Polling firms.

30 c. Businesses who call a person with whom the business has
31 an existing business relationship.

32 6. The secretary of state and consumer protection division
33 of the department of justice shall adopt rules pursuant to
34 chapter 17A to administer this section, including appropriate
35 notices to consumers of the types of calls toward which such

1 registration is directed.

2 Sec. 3. NEW SECTION. 476B.3 INVESTIGATIONS -- CIVIL
3 ACTIONS -- CIVIL PENALTY -- OTHER REMEDIES.

4 A violation of this chapter is a violation of section
5 714.16, subsection 2, paragraph "a". All the powers conferred
6 upon the attorney general to accomplish the objectives and
7 carry out the duties prescribed pursuant to section 714.16 are
8 also conferred upon the attorney general to enforce this
9 chapter, including, but not limited to, the power to issue
10 subpoenas, adopt rules pursuant to chapter 17A which shall
11 have the force of law, and seek injunctive relief and civil
12 penalties.

13 Sec. 4. NEW SECTION. 476B.4 NOTIFICATION OF RIGHTS.

14 The utilities board shall by rule ensure that
15 telecommunications providers inform their customers of the
16 customers' rights under this chapter. The notification shall
17 be made by at least both of the following:

18 1. Annual inserts in the billing statements mailed to
19 customers.

20 2. Conspicuous publication of the notice in the consumer
21 information pages of the local telephone directories.

22 EXPLANATION

23 This bill creates new Code chapter 476B establishing
24 restrictions on solicitations made by telephone.

25 New Code section 476B.1 provides definitions for the new
26 chapter, including "consumer", "consumer good or service",
27 "doing business in this state", "existing business
28 relationship", "merchant", "telephone solicitation", and
29 "telephone solicitor".

30 The bill provides in new Code section 476B.2 that the
31 secretary of state shall contract with a service to maintain a
32 do-not-call list. A residential, mobile, or telephonic paging
33 device telephone subscriber desiring to be placed on a "do-
34 not-call" list indicating that the subscriber does not wish to
35 receive telephone solicitations may register with the service

1 contracted for by the secretary of state. A telephone
2 solicitor shall obtain the listing quarterly, and shall not
3 call any consumer in Iowa whose name is on the list. The
4 prohibition does not apply to charitable organizations,
5 polling firms, or businesses who call a person with whom the
6 businesses have an existing business relationship.

7 The bill provides in new Code section 476B.3 that the
8 attorney general can enforce Code chapter 476B in the manner
9 of a violation of Code section 714.16 relating to consumer
10 frauds.

11 New Code section 476B.4 requires adoption of rules by the
12 utilities board related to customer notification of rights
13 under the bill.

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