

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

1 Committee/Subcommittee hearing bill: Regulatory Reform
2 Subcommittee

3 Representative Beltran offered the following:

4
5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

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8 Section 1. Paragraphs (g) and (k) of subsection (1),
9 paragraph (a) of subsection (8), and subsection (11) of section
10 501.059, Florida Statutes, are amended, and paragraph (e) is
11 added to subsection (8) of that section, to read:

12 501.059 Telephone solicitation.—

13 (1) As used in this section, the term:

14 (g) "Prior express written consent" means a written
15 agreement that:

16 1. Bears the signature of the called party;

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17 2. Clearly authorizes the person making or allowing the
18 placement of a telephonic sales call by telephone call, text
19 message, or voicemail transmission to deliver or cause to be
20 delivered to the called party a telephonic sales call using an
21 automated system for the selection and ~~or~~ dialing of telephone
22 numbers, the playing of a recorded message when a connection is
23 completed to a number called, the transmission of a text message
24 or the transmission of a prerecorded voicemail;

25 3. Includes the telephone number to which the signatory
26 authorizes a telephonic sales call to be delivered; and

27 4. Includes a clear and conspicuous disclosure informing
28 the called party that:

29 a. By executing the agreement, the called party authorizes
30 the person making or allowing the placement of a telephonic
31 sales call to deliver or cause to be delivered a telephonic
32 sales call to the called party using an automated system for the
33 selection and ~~or~~ dialing of telephone numbers or the playing of
34 a recorded message when a connection is completed to a number
35 called; and

36 b. He or she is not required to directly or indirectly
37 sign the written agreement or to agree to enter into such an
38 agreement as a condition of purchasing any property, goods, or
39 services.

40 (k) "Unsolicited telephonic sales call" means a telephonic
41 sales call other than a call made:

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42 1. Within 120 days after ~~In response to~~ an express request
43 of the ~~person~~ called party;

44 2. Primarily in connection with an existing debt or
45 contract, if payment or performance of such debt or contract has
46 not been completed at the time of such call;

47 3. To a person with whom the telephone solicitor has a
48 prior or existing business relationship; or

49 4. By a newspaper publisher or his or her agent or
50 employee in connection with his or her business.

51 (8)(a) A person may not make or knowingly allow a
52 telephonic sales call to be made if such call involves an
53 automated system for the selection and ~~or~~ dialing of telephone
54 numbers or the playing of a recorded message when a connection
55 is completed to a number called without the prior express
56 written consent of the called party.

57 (e) This subsection does not prohibit the use of an
58 automated telephone dialing system with live messages, or for
59 the transmission of text messages through an automated telephone
60 dialing system, if the call, live message or text message is
61 made or message is given solely in response to an inquiry
62 initiated by the called party. However, only two calls may be
63 made or messages given in response to each such inquiry.

64 (11)(a) In any civil litigation resulting from a
65 ~~transaction involving a~~ violation of this section, the
66 prevailing party, after judgment in the trial court and

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67 exhaustion of all appeals, if any, shall receive his or her
68 reasonable attorney ~~attorney's~~ fees and costs from the
69 nonprevailing party.

70 (b) The attorney for the prevailing party shall submit a
71 sworn affidavit of his or her time spent on the case and his or
72 her costs incurred for all the motions, hearings, and appeals to
73 the trial judge who presided over the civil case.

74 (c) The trial judge shall award the prevailing party the
75 sum of reasonable costs incurred in the action plus a reasonable
76 legal fee for the hours actually spent on the case as sworn to
77 in an affidavit.

78 (d) Any award of attorney ~~attorney's~~ fees or costs shall
79 become a part of the judgment and subject to execution as the
80 law allows.

81 (e) In any civil litigation initiated by the department or
82 the Department of Legal Affairs, the court may award to the
83 prevailing party reasonable attorney ~~attorney's~~ fees and costs
84 if the court finds that there was a complete absence of a
85 justiciable issue of either law or fact raised by the losing
86 party or if the court finds bad faith on the part of the losing
87 party.

88 Section 2. The amendments to s. 501.59, Florida Statutes
89 are intended to be remedial in nature, apply retroactively to
90 July 1, 2021, and to any proceeding or commenced on or after
91 July 1, 2021.

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92 Section 3. This act shall take effect July 1, 2022.

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T I T L E A M E N D M E N T

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Remove lines 6-7 and insert:

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certain inquiries; providing a limitation; providing

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for retroactive application; revising provisions for