

HOUSE No. 4334

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act requiring transparency in telephone solicitations.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 1 of chapter 159C of the General Laws, as appearing in the 2014
2 Official Edition, is hereby amended by inserting the following definitions in their appropriate
3 alphabetically-ordered locations, and by striking out any existing definitions of the same terms:--

4 “Charitable organization” shall have the same meaning as in section 18 of chapter
5 68, provided that such organization has satisfied the registration requirements of section 19 of
6 said chapter 68.

7 “Marketing or sales solicitation,” the initiation of a telephone call or message to
8 encourage the purchase or rental of, or investment in, property, goods or services, that is
9 transmitted to a consumer, but not including a telephone call or message: (i) to a consumer with
10 that consumer’s prior express written or verbal invitation or permission; (ii) by a tax-exempt
11 nonprofit organization, or any charitable organization, provided that the solicitation is conducted
12 by a bona fide member or employee of or volunteer for such organization and without the
13 involvement of any professional solicitor or commercial co-venturer as those terms are defined

14 in section 18 of said chapter 68; (iii) by an individual or organization for a noncommercial
15 purpose, such as a poll or survey; or (iv) to a consumer in response to a visit made by such
16 consumer to an establishment selling, leasing or exchanging consumer goods or services at a
17 fixed location.

18 SECTION 2. Section 4 of chapter 159C of the General Laws, as so appearing, is hereby
19 amended by inserting after the word “device”, in line 3, the following sentence:-

20 The telephone solicitor must conduct all marketing or sales solicitation calls using a valid
21 telephone number in which the consumer can directly communicate with the solicitor.

22 SECTION 3. Section 5A of chapter 159C of the General Laws, as so appearing, is hereby
23 amended by striking out paragraph (a) and inserting in place thereof the following paragraph:-

24 (a) A telephone solicitor shall disclose all of the following information within the first
25 minute of a telephonic sales call and before requesting, accepting or arranging for payment by a
26 consumer: (i) that the purpose of the telephone call is to make a sale or solicit funds; (ii) the
27 correct name of the telemarketing company that employs the individual telemarketer who is
28 making the call, provided that if the individual telemarketer is employed by a subcontractor hired
29 by the telemarketing company holding the contract with the person or organization desiring the
30 sale, then the individual telemarketer shall state as his or her employer the correct name of the
31 subcontractor; (iii) the correct name of the ultimate seller whose goods or services are being
32 offered by means of the telemarketing call; and (iv) a complete and accurate description of any
33 goods or services being offered including, but not limited to, the retail market value of the goods
34 or services.

35 SECTION 4. Said section 5A of chapter 159C is hereby further amended by adding the
36 following 3 paragraphs:-

37 (c) A solicitor who misrepresents themselves, either verbally or in writing, to be a police
38 officer, fireman, teacher, doctor, nurse, emergency medical technician, clergy member, or any
39 member of an organization for which they may have contracted with shall be subject to civil
40 penalties pursuant to chapter 93A, or any other remedy pursuant to section 8 of this chapter.

41 (d) A telephone solicitor as defined by section 1 of chapter 159C shall keep recordings of
42 calls made or letters sent for the purpose of soliciting funds. The recordings of the phone calls
43 shall be kept on file with the company for a period of not less than 180 days. At any point during
44 this period these recordings shall be subject to audit and inspection by the office of the attorney
45 general.

46 (e) A telephone solicitor working pursuant to chapter 159C shall be subject to civil
47 liabilities pursuant to chapter 93A for any violation of the section or any other remedy pursuant
48 to section 8 of this chapter.

49 SECTION 6: Paragraph (c) of section 8 of chapter 159C shall be deleted.