

## **CHAPTER 10. TELEMARKETER RESTRICTION ACT CONSUMER REGISTRY**

[Authority: 15 O.S., §§ 775(B)(1) et seq.]  
[Source: Codified 6-1-03]

### **SUBCHAPTER 1. ESTABLISHMENT, USE, AND ENFORCEMENT OF TELEMARKETER RESTRICTION ACT CONSUMER REGISTRY**

#### **PART 1. ESTABLISHMENT AND MAINTENANCE OF THE TELEMARKETER RESTRICTION ACT CONSUMER REGISTRY**

##### **75:10-1-1. Consumer request to be included in the registry**

(a) A consumer living or residing in Oklahoma, or a care giver for a consumer living or residing in Oklahoma, may request to be included in the no-telemarketing-sales-call registry, hereafter "registry", by any of the following means:

(1) Completing a written form prepared by the Attorney General for the purpose of recording a consumer's request to be included in the registry. Consumers must submit completed forms to the Attorney General at the address listed on the form.

(2) Calling a toll-free number established by the Attorney General for the purpose of recording a consumer's request to be included in the registry.

(3) Accessing an internet site established by the Attorney General for the purpose of recording a consumer's request to be included in the registry.

(b) Consumers requesting to be included in the registry must provide the following information when the request is made: name; address; county of residence; phone numbers to be included in the registry; and, e-mail address, if available.

[Source: Added at 19 Ok Reg 3071, eff 8-22-02 (emergency); Added at 20 Ok Reg 1081, eff 6-1-03]

##### **75:10-1-2. Maintenance of registry in electronic form**

The Attorney General will maintain the registry in electronic form through a computer database. The database shall consist of information submitted by consumers who have requested to be included in the registry.

[Source: Added at 19 Ok Reg 3071, eff 8-22-02 (emergency); Added at 20 Ok Reg 1081, eff 6-1-03]

##### **75:10-1-3. Deadlines to be included in the registry**

Upon receipt of a properly submitted and verified request to be included in the registry by the Attorney General, consumers' names and telephone numbers included in the registry shall be circulated to

telemarketers in the quarter following the deadline for receipt of requests according to the following schedule:

- (1) January-March: December 1
- (2) April-June: March 1
- (3) July-September: June 1
- (4) October-December: September 1

[Source: Added at 19 Ok Reg 3071, eff 8-22-02 (emergency); Added at 20 Ok Reg 1081, eff 6-1-03]

#### **75:10-1-4. No fee to consumers**

Consumers will not be charged a fee to be included in the registry.

[Source: Added at 19 Ok Reg 3071, eff 8-22-02 (emergency); Added at 20 Ok Reg 1081, eff 6-1-03]

#### **75:10-1-5. Verification of a consumer's request to be included in the registry**

The Attorney General will verify a consumer's request to be included in the registry by one of the following methods:

- (1) **Written requests.** Consumers must sign and date the written form prepared by the Attorney General for the purpose of recording a consumer's request to be included in the registry. A consumer's signature will serve to verify a written request.
- (2) **Telephonic requests.** After submission of a telephonic request, a consumer must confirm the request and the information provided by responding to a series of voice prompts through the telephone keypad. A consumer's affirmative responses to the voice prompts will serve to verify a telephonic request.
- (3) **Online requests.** Online requests to be included in the registry will be verified by electronic mail from the Attorney General to the consumer. The electronic mail message shall contain a request to contact the Attorney General by electronic mail, in writing, or by toll-free number if the consumer did not intend to be included in the registry.

[Source: Added at 19 Ok Reg 3071, eff 8-22-02 (emergency); Added at 20 Ok Reg 1081, eff 6-1-03]

#### **75:10-1-6. Effective duration of a consumer's request**

A request to be included in the registry shall remain in effect for two years from the date the consumer is first included in the registry. The request shall be automatically renewed at the end of two years unless the consumer provides written notice to the Attorney General that the consumer no longer wants to be included in the registry.

[Source: Added at 19 Ok Reg 3071, eff 8-22-02 (emergency); Added at 20 Ok Reg 1081, eff 6-1-03]

#### **75:10-1-7. Change of telephone number**

If a consumer's telephone number changes after the consumer's initial request to be included in the registry, the consumer must submit a new request to be included in the registry. The new request must be

submitted pursuant to these rules, and is subject to the deadlines herein.

[Source: Added at 19 Ok Reg 3071, eff 8-22-02 (emergency); Added at 20 Ok Reg 1081, eff 6-1-03]

#### **75:10-1-8. Removal from the registry**

(a) A consumer may request to be removed from the registry by one of the following methods:

(1) **Written notice.** A consumer may request to be removed from the registry by submitting a written notice to the Attorney General. The written notice must be submitted on a form prepared by the Attorney General and returned to the address listed on the form. For verification, the form must be signed and dated by the consumer.

(2) **Telephonic notice.** A consumer may request to be removed from the registry by calling a toll-free telephone number established by the Attorney General. A consumer must confirm the request by responding to a series of voice prompts through the telephone keypad. A consumer's affirmative responses to the voice prompts will serve to verify a telephonic request to be removed from the registry.

(b) Upon receipt of a written or telephonic request to be removed from the registry, the Attorney General will remove the consumer from the registry according to the same schedule for including consumers in the registry.

[Source: Added at 19 Ok Reg 3071, eff 8-22-02 (emergency); Added at 20 Ok Reg 1081, eff 6-1-03]

## **PART 2. ACCESS AND USE OF THE TELEMARKETER RESTRICTION ACT CONSUMER REGISTRY**

#### **75:10-1-9. Fees and procedure for telemarketers to access the registry**

Any telemarketer, as defined in 15 O.S. Supp. 2002, § 775B.2(5), desiring to make unsolicited telemarketing sales calls to consumers in Oklahoma may obtain access to the registry, subject to the limitations, requirements and fees set forth below:

(1) A telemarketer's access to the registry shall be limited to the names, telephone numbers, and dates of registration, of consumers included in the registry.

(2) A telemarketer must execute a written confidentiality agreement prepared by the Attorney General that restricts use of the registry to the sole purpose of complying with 15 O.S. Supp. 2002, §775B.6 as amended from time-to-time; prohibits transfer to a third party of the telemarketer's access to the registry; and prohibits transfer to a third party of any information compiled by the telemarketer through access to the registry.

(3) Fees for accessing the registry shall be \$600.00 per year or \$150.00 per quarter year. Such fees must be submitted to the Attorney General before a telemarketer is given access to the

registry.

(4) A telemarketer must submit a fully completed Request for Registry Access Form to the Attorney General. Such forms will be prepared by the Attorney General and must be returned to the address printed on the form. The following information must be provided on the form:

- (A) Name, address, and phone number of telemarketer;
- (B) Name, address, and phone number of all affiliates and subsidiaries;
- (C) Name, address, and phone number of all trade, assumed, or fictitious names used by the telemarketer;
- (D) Name, address, and phone number of the person to be contacted by the Attorney General with any questions concerning the request or complaints;
- (E) Name and address of service agent;
- (F) Description of telemarketer's commercial purpose, including goods and services offered for sale by the telemarketer;
- (G) Certification that the telemarketer will fully comply with the Telemarketer Restriction Act, 15 O.S. Supp. 2002 § 775 B.1 *et seq.* and the rules promulgated thereunder.
- (H) Certification that the telemarketer has fully complied with all other applicable laws, including but not limited to, 15 O.S. Supp. 2002 § 775A.3, or if claiming an exemption under other applicable laws, a notarized affidavit explaining why the telemarketer is exempt. The Attorney General may investigate all claims for exemption pursuant to the Consumer Protection Act.

[Source: Added at 19 Ok Reg 3071, eff 8-22-02 (emergency); Added at 20 Ok Reg 1081, eff 6-1-03]

#### **75:10-1-10. Improper uses of the registry**

No telemarketer who obtains access to the registry may use the information for purposes other than compliance with the Telemarketer Restriction Act.

[Source: Added at 19 Ok Reg 3071, eff 8-22-02 (emergency); Added at 20 Ok Reg 1081, eff 6-1-03]

### **PART 3. REPORTING OF VIOLATIONS AND ENFORCEMENT**

#### **75:10-1-11. Reporting violations and assessment of fines**

(a) Any consumer may report a violation of the Telemarketer Restriction Act by submitting a fully completed complaint form to the Attorney General. Such complaints may be submitted online or in writing on a form prepared by the Attorney General. Written complaint forms must be returned to the address printed on the form.

(b) Consumers will be asked for the following information on the complaint form:

- (1) Full name of complaining consumer;
- (2) Address of complaining consumer;
- (3) Telephone number telemarketer called;
- (4) Name and/or telephone number of the telemarketer;
- (5) Any information gathered by the consumer during the call concerning the telemarketer or the telemarketer's commercial purpose;
- (6) A statement giving consent to the consumer's local exchange carrier to produce all records relating to the call to the Attorney General; and
- (7) Any other information the Attorney General deems necessary to fully investigate the complaint.

(c) Upon receipt of a fully completed and properly submitted complaint, the Attorney General shall conduct an appropriate inquiry to determine if a violation has occurred. If the Attorney General determines that a violation has occurred, the Attorney General may, at his discretion, proceed with an enforcement action in district court, or assess an administrative fine.

(d) The schedule of administrative fines is as follows:

- (1) 1<sup>st</sup> and 2<sup>nd</sup> violations: not to exceed \$1,000.00 per violation;
- (2) 3<sup>rd</sup> and 4<sup>th</sup> violations: not to exceed \$2,000.00 per violation;
- (3) 5<sup>th</sup> and 6<sup>th</sup> violations: not to exceed \$4,000.00 per violation;
- (4) 7<sup>th</sup> and 8<sup>th</sup> violations: not to exceed \$6,000.00 per violation;
- (5) 9<sup>th</sup> and 10<sup>th</sup> violations: not to exceed \$8,000.00 per violation;
- (6) All subsequent violations: not to exceed \$10,000.00 per violation.

(e) Any telemarketer who refuses to pay an assessed fine may be assessed additional costs and reasonable attorney fees related to the collection of the fine.

[Source: Added at 19 Ok Reg 3071, eff 8-22-02 (emergency); Added at 20 Ok Reg 1081, eff 6-1-03]