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## TELEMARKETING: REGULATE HOME SOLICITATION

**House Bill 4042**

**Sponsor: Rep. Jennifer Faunce**

**House Bills 4153 and 4154**

**Sponsor: Rep. Jim Howell**

**Committee: Energy and Technology**

**Complete to 2-12-01**

### A SUMMARY OF HOUSE BILLS 4042, 4153, AND 4154 AS INTRODUCED 1-25-01

The bills would regulate home solicitation by telemarketers. All three bills would amend the home solicitation sales act (Public Act 227 of 1971): The main bill in the package, House Bill 4153, would amend the act to prohibit persons from engaging in the business of telephone solicitation in the state without being licensed under the act; House Bill 4154 would amend the act to require telephone solicitors to give the name of the company and a toll-free number; and House Bill 4042 would amend the act to create a “do not call” registry.

House Bill 4153 would amend Public Act 227 of 1971 (MCL 445.111, 445.11a, and 445.117) to prohibit home solicitation sales by telephone solicitation except as allowed under the bill. (Currently, the act prohibits home solicitation sales made by “telephonic solicitation” using recorded messages.)

Among other things, the act also currently authorizes legal action to collect under a home solicitation sale contract. More specifically, the act prohibits a person from bringing any action in any court in Michigan for the collection of any home solicitation contract without proving that the person was at all times in compliance with the act. The bill would strike this provision and instead prohibit a person from engaging in the business of telephone solicitation in Michigan unless the person held a license issued under the act, and would add the following licensing requirements:

An application license fee would cost \$500, and the application would have to be in writing on a form approved by the Michigan Public Service Commission (PSC), be verified by oath or affirmation, and contain all information that the commission required. In addition, the commission could require one or more of the following before issuing a license:

- (1) Proof of financial integrity;
- (2) That the applicant post a bond or other similar instrument, if, in the commission’s judgment, it were necessary to ensure the telephone solicitor’s financial integrity;
- (3) That the applicant both provide proof of being otherwise properly registered to do business in Michigan and agree to be subject to and pay all applicable Michigan taxes; and

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(4) Adopt any other requirements the commission found to be in the public interest.

If an applicant complied with all of the bill's requirements for applicants, the commission would be required to issue a license to allow the person to engage in the business of telephone solicitation. The license would expire annually on January 1, and could be renewed upon the filing of a renewal application on a form approved by the commission and the payment of a \$200 renewal fee. License fees collected under the bill or fees collected under section 14 would have to be deposited in the general fund in a restricted account and used exclusively for funding the commission.

The bill also would strike all of the act's current definitions and replace the stricken definitions with a new set of definitions.

House Bill 4154 (MCL 445.113) would add a new section to the home solicitation sales act to require the Michigan Public Service Commission to establish and provide for the operation of a register for residential telephone customers who object to receiving telephone solicitations. The register could be operated by the commission or by another party under contract with the commission, and the bill would include the following guidelines:

- (1) A residential telephone subscriber could enroll one or more telephone numbers on the register in the manner established by the commission. An enrollment on the register would take effect 30 days after the date the subscriber enrolled the telephone number(s).
- (2) A telephone number would remain on the register until the residential subscriber requested the commission to remove the number from the register.
- (3) Telephone numbers of business telephone subscribers could not be included on the register.
- (4) The commission would be required to update the register at the beginning of each month.
- (5) The commission could purge the register periodically in order to ensure accuracy.

The information contained in the database would not be open to public inspection or disclosure under the Freedom of Information Act, and the commission would have to take all necessary steps to protect the confidentiality of the information in the database. The commission also would be required to forward the list of Michigan telephone numbers on the register to the Federal Communications Commission's (or any other federal agency's) "do not call" national database, if a federal list were established.

House Bill 4154 would add a new section to the home solicitation sales act (MCL 445.119) to require telephone solicitors to give the company's name and a toll-free number staffed by real people ("a natural person") when they made a telephone solicitation to a residential telephone subscriber. More specifically, within 25 seconds of the telephone solicitation, and again at the conclusion of the call, a person making a telephone solicitation to a residential telephone subscriber would be required to state the name and telephone number of the organization or other

person on whose behalf the call was initiated. The telephone number given would have to be a toll-free number, and a real person would have to be available to answer the toll-free number at any time when telephone solicitations were being made. The person answering the toll-free number would have to both have and provide a residential telephone subscriber who called the toll-free number with information about the telephone solicitor and the telephone solicitation.

Both bills are tie-barred to House Bill 4153.

Analyst: S. Ekstrom

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.