

“Do Not Call” Policy of The Realty Association

The Tennessee Do-Not-Call Telephone Sales Solicitation Law restricts certain telephone solicitations to land-line and cell phone numbers of residential telephone subscribers who have elected not to receive telephone solicitations. Business numbers may not be included on the list.

Assume that all non-business numbers are on one of the Do Not Call lists:

The percentage of telephone numbers that are registered increases dramatically each year. **More than 75% of homeowners are now registered on the Tennessee Do Not Call list.** In addition to the Tennessee Do Not Call Registry, there is a National Do Not Call Registry (with over 50 million registered consumers) that is not incorporated in the Tennessee list. Consumers may also request that they be added to a company’s internal Do Not Call list. It would be extremely complicated and expensive to coordinate a master Do Not Call list for a large group of independent contractors. Therefore, for all practical purposes it is safest to **assume that all non-business numbers are on one of the Do Not Call lists.**

Be cautious! Do not risk a fine.

Exceptions (the following calls are still permitted):

- Calls to business numbers
- Calls to existing customers and clients
- Calls to past customers and clients within 12 months of prior business relationship
- Calls to consumers within 3 months after the consumer has made an inquiry
- Calls to consumers who have granted prior express (written) permission to call

(See NAR’s Frequently Asked Questions on second page regarding calls to FSBO’s, Expireds, Open House visitors, and Call Captured numbers.)

And don’t forget that it is still okay to mail, email, and knock on doors!

Links:

- [Do Not Call FAQs \(Consumers\)](#)
- [Do Not Call FAQs \(Telemarketers\)](#)
- [Do Not Call Field Guide \(NAR\)](#)
- [Do Not Call Program - TN Regulatory Authority](#)
- [Do Not Call - TN Rules and Regulations](#)

NAR Frequently Asked Questions:

1. Do the new rules apply to calls made to businesses? No, the Do-Not-Call Registry is only for residential telephone numbers.

2. Are there any exemptions to the rule? Yes. There are few exemptions to the new rules:

- Persons who have granted prior express **permission** to call in writing.
- Consumers with whom the seller has an **existing business relationship**. This applies to existing clients and customers and extends for **up to 12 months (in TN)** after the end of a transaction.
- If a consumer makes an inquiry, the telemarketer can call the person for **up to three months after the inquiry**.

3. Do the new rules apply to calls made to FSBO's? There are two instances when a real estate professional would call a FSBO seller. The first would be a real estate professional seeking of a FSBO listing, and the second would be a buyer's representative who believes his/her client might be interested in a FSBO property. **NAR does not see any problem with a buyer's representative contacting a FSBO owner whose number is listed in the Do-Not-Call registry about a client's potential interest** in the property, as this call is not a telephone solicitation by the buyer's representative. Note that the buyer's representative can only discuss his/her client's interest in the property and not use a purported client's interest as a way to also discuss the possibility of the FSBO owner listing his/her property with the buyer's representative. **However, a real estate professional would be prohibited from initiating a telephone call to a FSBO seller whose number is listed in the Do-Not-Call registry in an attempt to obtain a listing.** The rules prohibit anyone from making telephone solicitations to telephone numbers that are registered in the database, and a call initiated to obtain the listing falls within that definition. NAR is seeking clarification from the FCC for calls made to consumers in response to a yard sign or an advertisement in the newspaper that provides a telephone number. Until this clarification is provided, it is advisable to take a conservative approach and refrain from calling.

4. Can I still call Expired Listings? You should refrain from calling them unless some other exemption allows them to call the seller (such as an inquiry from the seller). NAR has specifically requested further clarification from the FCC in its "Petition for Reconsideration."

5. A consumer calls my office to inquire about a listing. Can I call this consumer to talk about other listings over the next three months, or am I limited to only discussing the property which prompted the consumer's call? The Rules permit calls following an inquiry **for three months after the inquiry** or until the consumer requests to be placed on the company's do-not-call list. There is no limit on what can be discussed with the consumer during those three months. Thus, other listings could be discussed with the consumer over the next three months.

6. A former client calls and tells me a friend of hers would like me to call her to discuss the possibility of her listing her home with me. Can I call this referral? It is not clear whether this sort of indirect inquiry would qualify as a "customer inquiry" within the Rules. NAR is seeking clarification from the FCC on what exactly constitutes an "inquiry" which would give a telemarketer the ability to call someone. (To be safe, you should call them at a business number, or tell your former client to have their friend call you.)

7. Can I call visitors to an open house who provide their phone numbers on a sign-in sheet? The safest course would be to provide some kind of notice on the sign-in sheet alerting visitors that they are consenting to receive a follow-up call, such as providing a space on the sign-in sheet for visitors to include a "telephone number that it is okay to call you at."

8. What about "call capture" 800 numbers that interested consumers can call to receive additional information about a property. During the call, the system also captures the telephone number of the caller. Will this type of call be considered an "inquiry" for purposes of the exemption? The test under the Rules is whether the consumer has a reasonable expectation of receiving a return call. Therefore, in your recorded message to consumers, you should create such an expectation by informing the consumer that they can expect a return phone call, and offering the consumer the ability to opt out of the return call.

9. What are the federal fines? The fine for calling someone whose name appears on the Do-Not-Call Registry is up to **\$11,000 per call** by the federal government, and \$500 for a lawsuit by a state attorney general or a consumer. (Tennessee has up to a \$2,000 fine plus "additional relief" for each violation.)

Do Not Call: Tennessee Rules and Regulations

TELEPHONE SOLICITATION REGULATIONS - DO NOT CALL REGISTER RULES OF TN REGULATORY AUTHORITY CONSUMER SERVICES DIVISION (June, 2005)

1220-4-11-.01 DEFINITIONS

(11) “**Existing customer**” includes a residential telephone subscriber with whom the person or entity making a telephone solicitation has had a **business relationship within the prior 12 months**.

(19) “**Telephone solicitation**” means any voice communication over a telephone, originating from Tennessee or elsewhere, for the purposes of **encouraging the purchase or rental of, or investment in, property, goods, or services** except as provided for below. “For the purposes of encouraging” includes any call made with the intent that the call will ultimately result in the purchase or rental of, or investment in, property, goods, or services. Such **calls include, but are not limited to: calls to set appointments, interviews or consultations; to conduct a survey; or to offer a give-away**. Telephone solicitation **does not include:**

(a) any voice communication to any residential telephone subscriber with that subscriber's **prior express invitation or permission;**

1. An offer to sell or rent a discrete piece of real or personal property does **not** constitute an express invitation or permission except for the sole purpose of purchasing or renting the property...

(c) any voice communication to any residential telephone subscriber who is an **existing customer;**

1220-4-11-.02 GENERAL TELEPHONE SOLICITATION REGULATIONS

(1) No telephone solicitor shall place a telephone call to a residential telephone subscriber at any time other than between the hours of **8:00 a.m. to 9:00 p.m.** (local time at the called party's location) without the residential telephone subscriber's prior express invitation or permission.

(2) All telephone solicitors must institute procedures for **maintaining a list of persons who do not wish to receive telephone solicitations** made by or on behalf of telephone solicitors in compliance with this Chapter.

(3) All telephone solicitations to residential telephone subscribers shall, **at the beginning of such call, state clearly the identity of the person initiating the call and entity or organization** such person represents...

(b) Live telephone solicitors must **provide a telephone number** that will be answered when telephone solicitations are being made. The person answering the telephone must be willing and able to provide information concerning the call.

(4) Telephone solicitors are prohibited from knowingly using telephone equipment or telecommunications network elements to block or otherwise **interfere with the caller ID function** on the telephone of a residential telephone subscriber to whom a telephone solicitation is made so that the telephone number of the caller is not displayed on the telephone equipment of the called party.

Rule 1220-4-11-.07

(3) Violators of this Chapter are subject to a civil penalty, payable to the Authority, of an amount not to exceed Two-Thousand Dollars (**\$2,000**) **for each violation**. In addition, the Authority may seek additional relief in any court of competent jurisdiction.