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## COMMERCE AND TRADE Selling and Other Trade Practices: Prohibit Nonlocal Businesses from Listing a Local Telephone Number Under Certain Circumstances; Prohibit Certain Practices Relating to Telemarketing Transactions; Provide for Civil and Criminal Penalties and for Vicarious Liability Under Certain Circumstances

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## COMMERCE AND TRADE

*Selling and Other Trade Practices: Prohibit Nonlocal Businesses from Listing a Local Telephone Number Under Certain Circumstances; Prohibit Certain Practices Relating to Telemarketing Transactions; Provide for Civil and Criminal Penalties and for Vicarious Liability Under Certain Circumstances*

**CODE SECTIONS:** O.C.G.A. §§ 10-1-393 (amended), -393.6 (new), 10-5B-2, -4, 16-8-12 (amended)

**BILL NUMBER:** HB 1420

**ACT NUMBER:** 800

**GEORGIA LAWS:** 1998 Ga. Laws 643

**SUMMARY:** The Act generally addresses deceptive and fraudulent practices involved in telemarketing transactions. It prohibits nonlocal businesses from listing a local telephone number in any nonclassified local directory without also listing their nonlocal address when calls are routinely forwarded to the nonlocal address. The Act also prohibits telemarketers from engaging in certain fraudulent practices involving credit records, the recovery of money lost in a prior telemarketing transaction, and the use of courier services to receive immediate payment. Further, the Act defines telemarketing to include charitable solicitations and prohibits the use of a courier to receive such contributions. Finally, the Act provides for civil and criminal penalties, including penalties for a felony offense, and for vicarious liability for certain telemarketing transactions.

**EFFECTIVE DATE:** July 1, 1998

*History*

Every year, American consumers lose an estimated forty billion dollars to fraudulent telemarketing transactions.<sup>1</sup> Due in part to Georgia's abundance of inexpensive office space, many telemarketing companies engaging in fraudulent schemes relocate to the state every year,<sup>2</sup> contributing to Georgia's ranking in 1996 as the sixth highest state in the nation in telemarketing fraud and the tenth highest in complaints about such fraud.<sup>3</sup> A more alarming statistic is that over seventy-five percent of that fraud is targeted at the State's elderly citizens.<sup>4</sup> Over the past few years, the Georgia General Assembly has enacted legislation designed to protect the elderly and others who are frequent targets of telemarketing fraud.<sup>5</sup>

In 1996 and 1997, the General Assembly passed legislation targeting telemarketing fraud in Georgia by providing for more effective prosecution and increased consumer protection.<sup>6</sup> The 1996 legislation amended the Fair Business Practices Act of 1975<sup>7</sup> (FBPA) by expanding the definition of unlawful and deceptive trade practices to include telemarketing transactions and similar activity over the Internet.<sup>8</sup> Similarly, the 1997 legislation amended the FBPA by prohibiting specified fraudulent telemarketing transactions and by allowing for more efficient prosecutions.<sup>9</sup> In addition, in both years, Georgia lawmakers expanded the scope of those subject to criminal penalties for engaging in telemarketing fraud.<sup>10</sup>

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1. See *BellSouth, Consumer Groups Warn of Telephone Scams*, PR NEWSWIRE, Mar. 31, 1998.

2. See Celia Sibley, *Gwinnett's Neighbors: DeKalb DA to Target Illegal Telemarketers*, ATLANTA J. & CONST., Sept. 30, 1997, at J3.

3. See Telephone Interview with John Daniel, American Association of Retired Persons (May 28, 1998) [hereinafter Daniel Interview].

4. See Record of Proceedings in the Senate Consumer Affairs Committee (Mar. 11, 1998) [hereinafter Record of Proceedings] (remarks by Rep. Michael Polak) (available in Georgia State University College of Law Library).

5. See Telephone Interview with Rep. Michael Polak, House District No. 07 (May 27, 1998) [hereinafter Polak Interview].

6. See *Review of Selected 1997 Georgia Legislation*, 14 GA. ST. U. L. REV. 29 (1997) [hereinafter *Selected 1997 Legislation*]; *Review of Selected 1996 Georgia Legislation*, 13 GA. ST. U. L. REV. 33 (1996) [hereinafter *Selected 1996 Legislation*].

7. 1975 Ga. Laws 376 (codified at O.C.G.A. §§ 10-1-390 to -407 (1994)).

8. See *Selected 1996 Legislation*, *supra* note 6, at 34.

9. See *Selected 1997 Legislation*, *supra* note 6, at 32-36.

10. See *id.* at 34; *Selected 1996 Legislation*, *supra* note 6, at 34-35. *But see Selected*

In 1998, the General Assembly, working in conjunction with advocacy groups for Georgia's elderly,<sup>11</sup> introduced HB 1420, as part of the continued effort to provide the Governor's Office of Consumer Affairs with the means to gather information about telemarketing fraud and to aid in the prosecution of such fraud.<sup>12</sup> The bill was the result of a national effort by the American Association of Retired Persons (AARP) and was based upon the organization's model legislation.<sup>13</sup> However, even before introducing the bill, legislators removed some sections of the model act, such as telemarketer bond requirements and registration with the Office of the Secretary of State, that either did not apply to Georgia or that might have hindered the bill's passage.<sup>14</sup>

### *Introduction*

Representative Michael Polak, of the 67th District, sponsored the bill and introduced it on January 27, 1998.<sup>15</sup> The bill was assigned to the House Industry Committee, which recommended a "do pass" by substitute.<sup>16</sup> The House unanimously passed a floor amendment on March 6, 1998,<sup>17</sup> and it was sent to the Senate Consumer Affairs Committee, which also recommended a "do pass" by substitute.<sup>18</sup> On March 13, 1998, that substitute was amended on the Senate floor<sup>19</sup> and

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*1997 Legislation, supra* note 6, at 36 (discussing reduction in criminal penalties for violations from those established by previous year's Act).

11. *See* Daniel Interview, *supra* note 3; Polak Interview, *supra* note 5. The advocacy groups for Georgia's elderly involved with HB 1420 were the American Association of Retired Persons (AARP), Co-AGE, and the Consumer Law Center of the South. *See* Daniel Interview, *supra* note 3.

12. *See* Record of Proceedings, *supra* note 4; Telephone Interview with Joleen Neel, Senior Citizen's Advocacy Project (May 29, 1998) [hereinafter Neel Interview]; *see also* *Review of Selected 1998 Georgia Legislation*, 15 GA. ST. U. L. REV. 209 (1998) (discussing passage of HB 71, which created a "do not call" list of consumers to block receipt of telemarketing calls).

13. *See* Daniel Interview, *supra* note 3.

14. *See* Neel Interview, *supra* note 12.

15. *See* HB 1420, as introduced, 1998 Ga. Gen. Assem.; State of Georgia Final Composite Status Sheet, Mar. 19, 1998.

16. *See* HB 1420 (HCS), 1998 Ga. Gen. Assem.

17. *See* HB 1420 (HCSFA), 1998 Ga. Gen. Assem.; Georgia House of Representatives Voting Record, HB 1420 (Mar. 6, 1998).

18. *See* Polak Interview, *supra* note 5. This version was not made available for public circulation because it only "cleaned up" the language of the bill without making substantive changes. *See id.*

19. *See* HB 1420 (SCSFA), 1998 Ga. Gen. Assem.

unanimously passed.<sup>20</sup> The House concurred with the Senate amendments on March 19, 1998,<sup>21</sup> and the bill was forwarded to Governor Zell Miller, who signed HB 1420 into law on April 6, 1998.<sup>22</sup>

### *The Act*

#### *Section 1*

Section 1 of the Act originated as HB 1333, a completely separate bill, sponsored by Representative Don Parsons of the 40th District, that targeted deceptive advertising connected with certain telephone transactions.<sup>23</sup> The House Industry Committee recommended a “do pass” substitute to that bill on February 19, 1998;<sup>24</sup> however, the substitute stalled in the House Rules Committee until March 6, 1998, when Representative Polak attached it to HB 1420 on the last day that bills originating in the House could be sent to the Senate for consideration.<sup>25</sup> Although Section 1 does not target the same type of telemarketing transactions as the remaining sections of HB 1420, Representative Polak allowed the inclusion of HB 1333 because it affected the same Code title as HB 1420 and because both bills would come under the enforcement arm of the Governor’s Office of Consumer Affairs.<sup>26</sup>

Section 1 responds to complaints made largely by local businesses and florists that customers were being deceived into believing that nonlocal businesses were providing local services.<sup>27</sup> The problem was that telephone companies allowed nonlocal businesses to list a local telephone number in directories without also listing their nonlocal location; the directories would even list the nonlocal business as a local one.<sup>28</sup> As a result, consumers searching a local directory for a local business might unknowingly contact a nonlocal business based

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20. See Georgia Senate Voting Record, HB 1420 (Mar. 13, 1998).

21. See Georgia Bill Tracking for HB 1420, Mar. 19, 1998, available in LEXIS, States Library, GATRCK file.

22. See 1998 Ga. Laws 643, § 6, at 648.

23. See Telephone Interview with Rep. Don Parsons, House District No. 40 (May 28, 1998) [hereinafter Parsons Interview]; 1998 Ga. Laws 643, § 1; see also HB 1333 (HCS), 1998 Ga. Gen. Assem.

24. See State of Georgia Final Composite Status Sheet, Mar. 19, 1998.

25. See Parsons Interview, *supra* note 23.

26. See *id.*

27. See *id.*

28. See *id.*

solely upon the directory listing.<sup>29</sup> That problem was compounded when the nonlocal businesses enlisted a local business to complete the service and added a fee for their involvement, thus raising the price to the ultimate consumers who thought they were dealing with a local business all along.<sup>30</sup>

Section 1 remedies this problem by amending Code section 10-1-393 of the FBPA,<sup>31</sup> relating to unfair or deceptive consumer transactions. The Act requires nonlocal businesses that list a local telephone number for their services to also list their nonlocal business location when calls will be routinely forwarded to that location.<sup>32</sup> While existing language already required nonlocal businesses to disclose their locations in local telephone *classified* advertising directories,<sup>33</sup> such as the “Yellow Pages,” this amendment targets the *nonclassified* directories, which are distributed by local towns and generally list more local businesses.<sup>34</sup> The Act further amends Code section 10-1-393 by adding a definition for nonclassified local telephone directories<sup>35</sup> and by making technical changes to accommodate the new language.<sup>36</sup>

### *Section 2*

Section 2 further amends the FBPA by adding new Code section 10-1-393.6, which prohibits three specific types of telemarketing schemes aimed particularly at the elderly.<sup>37</sup> The purpose behind this addition was to make prosecutions for telemarketing fraud more efficient by codifying the schemes as unlawful, thereby relieving prosecutors of

29. *See id.*

30. *See id.*

31. *Compare* 1996 Ga. Laws 1030, § 1, at 1035-36 (formerly found at O.C.G.A. § 10-1-393(b)(4) (Supp. 1997)), *with* O.C.G.A. § 10-1-393(b)(4) (Supp. 1998).

32. *See* O.C.G.A. § 10-1-393(b)(4)(A)(ii) (Supp. 1998).

33. *See* 1996 Ga. Laws 1030, § 1, at 1035 (formerly found at O.C.G.A. § 10-1-393(b)(4) (Supp. 1997)).

34. *See* Parsons Interview, *supra* note 23. While the “White Pages” are also considered nonclassified directories, this Code section really targets the local directories distributed by towns because they cover a smaller geographical area and list more local businesses. *See id.*

35. *See* O.C.G.A. § 10-1-393(b)(4)(B)(iv) (Supp. 1998).

36. These minor changes included: a general renumbering and restructuring of the subsection's organization, *see id.* § 10-1-393(b)(4); the striking of “classified advertising,” *see id.* § 10-1-393(b)(4)(B)(i); and the addition of “or listing,” *see id.* § 10-1-393(b)(4)(B)(v).

37. *See* Polak Interview, *supra* note 5; *see also* text accompanying *infra* notes 43-51 (discussing three targeted schemes).

the need to prove fraud as an element of the offense.<sup>38</sup> For that same purpose, legislators drafted the language in the section quite broadly.<sup>39</sup>

Subsection (a) of Code section 10-1-393.6 refers to the existing definition of telemarketing within the FBPA, which is codified at Code section 10-1-393.5(a).<sup>40</sup> Georgia's FBPA references the federal telemarketing definition, "a plan, program, or campaign which is conducted to induce the purchase of goods or services by use of one or more telephones and which involves more than one interstate telephone call,"<sup>41</sup> but includes calls made in intrastate commerce as well.<sup>42</sup>

Subsection (b) of Code section 10-1-393.6 prohibits telemarketer participation in three specific fraudulent schemes that the AARP identified as causing particular harm to the elderly.<sup>43</sup> All three involve attempts by telemarketers to receive advance payments for promised services that they never perform.<sup>44</sup> First, the Act prohibits a telemarketer from requesting an advanced fee for the removal of damaging information from a consumer's credit record.<sup>45</sup>

The second prohibited scheme involves what is called "boiler room fraud," a two-step transaction whereby the consumer is actually defrauded twice.<sup>46</sup> This type of fraud occurs when a telemarketer steals money through the first call and then places a second call to the same victim a few weeks later, this time posing as a government agent offering to recover the previously stolen money for a sizeable fee.<sup>47</sup> The Act prohibits the telemarketer from requesting or receiving in advance the fee charged for supposedly recovering the funds stolen in the "prior telemarketing transaction."<sup>48</sup> However, to keep the language consistent with federal legislation, the Act continues to allow advanced

38. See Neel Interview, *supra* note 12.

39. See *id.*

40. See O.C.G.A. § 10-1-393.6(a) (Supp. 1998); 1997 Ga. Laws 1507, § 2, at 1508-09 (codified at O.C.G.A. § 10-1-393.5(a) (Supp. 1997)); see also text accompanying *infra* notes 60-61 (involving creation of a new definition for telemarketing within the Code).

41. 16 C.F.R. § 310.2(u) (1998).

42. See 1997 Ga. Laws 1507, § 2, at 1508 (codified at O.C.G.A. § 10-1-393.5(a) (1994)).

43. See Polak Interview, *supra* note 5.

44. See *id.*

45. See *id.*; O.C.G.A. § 10-1-393.6(b)(1) (Supp. 1998).

46. Polak Interview, *supra* note 5.

47. See Record of Proceedings, *supra* note 4.

48. O.C.G.A. § 10-1-393.6(b)(2) (Supp. 1998); see Polak Interview, *supra* note 5.

fees charged when attorneys legitimately offer to recover the stolen money.<sup>49</sup>

Finally, the Act prohibits telemarketer participation in a third fraudulent scheme that involves sending an associate or a courier to the consumer's home to intimidate the consumer into immediate payment for promised services.<sup>50</sup> However, an exception allows the use of a courier to receive payment in a situation when goods are first delivered and offered for inspection.<sup>51</sup>

Subsection (c) of Code section 10-1-393.6 creates criminal penalties, beyond any civil penalties, for those intentionally violating subsection (b) and refers to Code section 16-8-12 for the applicable punishment.<sup>52</sup> Legislators referred to Code section 16-8-12 because that Code section already codified a criminal penalty for other telemarketing transactions prohibited by the Code.<sup>53</sup> Supporters of the bill chose not to pursue more serious criminal penalties for violations because the General Assembly, in the previous legislative session, had already reduced the maximum prison sentence for telemarketing fraud from twenty years to ten years.<sup>54</sup> Finally, subsection (c) creates vicarious liability for those constituents possessing "prior actual knowledge" of a violation when the entity itself is charged with the violation, including liability for the officers and directors of a corporation, the owner of a sole proprietorship, and partners.<sup>55</sup>

### *Section 3*

Section 3 of the Act amends Chapter 5B of Title 10 of the Code, relating to deceptive, fraudulent, and abusive telemarketing transactions, by adding definitions that bring charitable solicitations under the Code's regulation.<sup>56</sup> Although nonprofit telemarketers asked to be exempted from regulation, their inclusion in the Act provides

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49. See O.C.G.A. § 10-1-393.6(b)(2) (Supp. 1998); Polak Interview, *supra* note 5.

50. See O.C.G.A. § 10-1-393.6(b)(3) (Supp. 1998); Polak Interview, *supra* note 5.

51. See O.C.G.A. § 10-1-393.6(b)(3) (Supp. 1998); Polak Interview, *supra* note 5.

52. See O.C.G.A. §§ 10-1-393.6(c), 16-8-12(a)(4) (Supp. 1998).

53. See Neel Interview, *supra* note 12.

54. See *id.*; see also *Selected 1997 Legislation*, *supra* note 6, at 36 (discussing reduction in penalties for violations under the Act).

55. O.C.G.A. § 10-1-393.6(c) (Supp. 1998).

56. See Polak Interview, *supra* note 5. Compare 1994 Ga. Laws 536, § 1, at 537-38 (formerly found at O.C.G.A. § 10-5B-2 (1994)), with O.C.G.A. § 10-5B-2 (Supp. 1998).



“teeth” to efforts designed to curb fraudulent telemarketing transactions overall.<sup>57</sup>

The first amendment to Code section 10-5B-2 adds a new subsection that defines the scope of a charitable contribution to include “money or property of any kind or value to be used for any charitable purpose,”<sup>58</sup> and references Code section 43-17-2 to define “charitable purpose.”<sup>59</sup> The second amendment creates new language that defines telemarketing, and other terms related to telemarketing, to include “a sale or offer to sell a security” and “a solicitation of a charitable contribution.”<sup>60</sup> Prior to the Act, no definition for telemarketing existed in Chapter 5B, and its inclusion should complement the definition of telemarketing in the FBPA.<sup>61</sup> Legislators made other minor changes to Code section 10-5B-2 to accommodate the language of the added definitions.<sup>62</sup>

#### *Section 4*

The regulation of charitable solicitations receives further attention in Section 4, which also amends Chapter 5B of Title 10 of the Code.<sup>63</sup> This time, however, legislators amended Code section 10-5B-4 by adding nonprofit telemarketers to the list of those prohibited from using a courier to receive payment for certain transactions.<sup>64</sup> The prohibition applies to the use of “any person” as a courier, but is

57. Daniel Interview, *supra* note 3.

58. O.C.G.A. § 10-5B-2(a)(1) (Supp. 1998).

59. *See id.*; 1988 Ga. Laws 490, § 1, at 491-92 (codified at O.C.G.A. § 43-17-2(3) (1994)) (“‘Charitable purpose’ means any charitable, benevolent, philanthropic, patriotic, or eleemosynary purpose for religion, health, education, social welfare, arts and humanities, environment, civic, or public interest; and any purpose which is falsely represented to be a charitable purpose as defined by this paragraph.”).

60. O.C.G.A. § 10-5B-2(a)(8) (Supp. 1998).

61. *See* Neel Interview, *supra* note 12. Before this Act, the Code’s definition of telemarketing merely referred to the federal definition in 16 C.F.R. § 130.2(u). *See* text accompanying *supra* notes 40-42.

62. These minor changes included a general renumbering of the subsections and the additions of the following language: “or charitable sale or contribution” to O.C.G.A. § 10-5B-2(a)(8)(A) (Supp. 1998); “or contribute” to § 10-5B-2(a)(8)(B); and “[i]n the case of a sale of goods or services only” to § 10-5B-2(a)(8)(C). *Compare* 1994 Ga. Laws 536, § 1, at 537-38 (formerly found at O.C.G.A. § 10-5B-2 (1994)), *with* O.C.G.A. § 10-5B-2 (Supp. 1998).

63. *Compare* 1994 Ga. Laws 536, § 1, at 539-40 (formerly found at O.C.G.A. § 10-5B-4 (1994)), *with* O.C.G.A. § 10-5B-4 (Supp. 1998).

64. *See* O.C.G.A. § 10-5B-4(a)(6) (Supp. 1998); Polak Interview, *supra* note 5; *see also* text accompanying *supra* notes 50-51 (noting prohibitions against the use of couriers by for-profit telemarketers).

limited to the collection of a “monetary contribution from a residence.”<sup>65</sup> The purpose behind the limitation was to allow the continued use of couriers to receive non-monetary contributions, such as clothing donations to the Salvation Army, and to receive contributions of any type from businesses because these transactions did not involve the use of intimidation against the elderly.<sup>66</sup>

### *Section 5*

Section 5 codifies the criminal punishment associated with violations of Code section 10-1-393.6(b) by amending Code section 16-8-12, which imposes a sentence of “imprisonment for not less than one nor more than ten years” for enumerated crimes.<sup>67</sup> The amendment simply adds violations of Code section 10-1-393.6(b) to the list of crimes already covered, including motor vehicle theft and telemarketing transactions prohibited by Chapter 5B of Title 10 of the Code.<sup>68</sup> Further, Code section 16-8-12 subjects those telemarketers found guilty of subsequent violations of Code section 10-1-393.6(b) to more severe punishments.<sup>69</sup>

### *HB 1420*

#### *House Committee Substitute*

The introduced version of HB 1420 would simply have codified prohibitions against certain telemarketing transactions and punishments for violators.<sup>70</sup> However, the House Industry Committee offered a substitute to HB 1420 that resulted in major changes to the introduced version of the bill.<sup>71</sup> First, as introduced in the House, the bill proposed an amendment that would have prevented telemarketers

65. O.C.G.A. § 10-5B-4(a)(6) (1998).

66. See Polak Interview, *supra* note 5.

67. 1997 Ga. Laws 1507, § 4, at 1510 (formerly found at O.C.G.A. § 16-8-12(a)(4)(A) (Supp. 1997)); see text accompanying *supra* notes 52-55 (detailing creation of criminal penalties for violations of O.C.G.A. § 10-1-393.6(b) (Supp. 1998)). Compare 1997 Ga. Laws 1507, § 4, at 1510 (formerly found at O.C.G.A. § 16-8-12(a)(4) (Supp. 1997)), with O.C.G.A. § 16-8-12(a)(4) (Supp. 1998).

68. See O.C.G.A. § 16-8-12(a)(4)(A) (Supp. 1998).

69. See *id.* § 16-8-12(a)(4)(A)-(B) (subjecting subsequent violators to punishment accorded repeat offenders by 1994 Ga. Laws 1959, § 12, at 1967-69 (codified at O.C.G.A. § 17-10-7 (1997)), not to exceed twenty years imprisonment).

70. See HB 1420, as introduced, 1998 Ga. Gen. Assem. (proposing the prohibitions in Code section 10-1-393.6(b) and the punishments in Code section 16-8-12(a)(4)).

71. See HB 1420 (HCS), 1998 Ga. Gen. Assem.; Polak Interview, *supra* note 5.

from eliciting bank account information from an unsuspecting consumer and then taking that information to the bank to draw on the consumer's account.<sup>72</sup> The amendment would have prevented such fraud by requiring banks to obtain the consumer's written authorization before releasing money from his or her account to the telemarketer;<sup>73</sup> however, at the urging of the banking lobby, the House Industry Committee removed the amendment in its substitute to the bill.<sup>74</sup>

One reason for the failure of the account fraud amendment was that legitimate telemarketers often elicited account information from their customers to obtain payment for services.<sup>75</sup> Therefore, the banking lobby argued that regulating this practice would restrict the legitimate interests of many telemarketers and would result in the loss of banking revenues.<sup>76</sup> The removal of the amendment also reflected a compromise with the banking lobby, whereby banks would fund programs to educate consumers and tellers about the dangers of bank account fraud.<sup>77</sup> These programs would reach consumers, for example, via information mailed with bank statements and would warn against providing routing numbers and other account information to telemarketers over the phone.<sup>78</sup> Other opposition to the account fraud amendment came from the direct-marketing business lobby.<sup>79</sup>

Second, the House Committee substitute included definitions that would amend Code section 10-5B-2 by adding charitable solicitations to the list of telemarketing activities regulated by the Code.<sup>80</sup> Third, the Committee substitute proposed language that would amend Code section 10-5B-4 by prohibiting nonprofit telemarketers from using a courier to collect monetary charitable contributions.<sup>81</sup> Finally, the substitute added language that would continue allowing attorneys to

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72. See Neel Interview, *supra* note 12.

73. See HB 1420 (HCS), 1998 Ga. Gen. Assem. (proposing O.C.G.A. § 10-1-393.6(b)(3) to combat account fraud); Record of Proceedings, *supra* note 4.

74. See Neel Interview, *supra* note 12.

75. See *id.*

76. See *id.*

77. See *id.*; Daniel Interview, *supra* note 3; Polak Interview, *supra* note 5.

78. See Neel Interview, *supra* note 12.

79. See Polak Interview, *supra* note 5.

80. See HB 1420 (HCS), 1998 Ga. Gen. Assem.; see also text accompanying *supra* notes 56-62 (referring to changes to Code section 10-5B-2).

81. See HB 1420 (HCS), 1998 Ga. Gen. Assem.; see also text accompanying *supra* notes 63-66 (referring to changes to Code section 10-5B-4).

contact consumers regarding the recovery of funds lost to a prior telemarketing transaction.<sup>82</sup>

#### *House Floor Amendment*

Representatives amended the Committee substitute on the House floor in the waning hours of March 6, 1998, the last day that bills originating in that chamber could pass to the Senate for consideration.<sup>83</sup> The only change made to the substitute was the inclusion of HB 1333, which prohibited nonlocal businesses from listing local telephone numbers in nonclassified directories without also listing their nonlocal addresses when the calls would be forwarded to that location.<sup>84</sup> Legislators included that prohibition as part of proposed Code section 10-1-393.6(b), with the definition of “nonclassified local directory” added to proposed Code section 10-5B-2(a).<sup>85</sup>

#### *Senate Committee Substitute*

The Senate Consumer Affairs Committee offered a substitute to the House version of HB 1420, but made only minor changes to “clean up” the bill’s language.<sup>86</sup> The Committee did not make any substantive changes to HB 1420.<sup>87</sup>

#### *Senate Floor Amendment*

Senators amended the Consumer Affairs Committee substitute on the Senate floor with only minor changes that reorganized the bill and some of its language.<sup>88</sup> First, the floor amendment relocated the language of HB 1333, referring to telephone listings placed by nonlocal

82. See HB 1420 (HCS), 1998 Ga. Gen. Assem.; see also text accompanying *supra* notes 46-49 (referring to changes to Code section 10-1-393.6(b)(2)).

83. See Parsons Interview, *supra* note 23.

84. See HB 1420 (HCSFA), 1998 Ga. Gen. Assem.; see also text accompanying *supra* notes 23-36 (discussing inclusion of HB 1333 to HB 1420).

85. See HB 1420 (HCSFA), 1998 Ga. Gen. Assem. (proposing Code section 10-1-393.6(b)(4) to codify the prohibition and Code section 10-5B-2(a)(9) to codify the definition).

86. Polak Interview, *supra* note 5. Incidentally, no version of HB 1420 (SCS) was made available for public circulation. See also text accompanying *supra* note 18.

87. See Polak Interview, *supra* note 5.

88. See *id.*; Parsons Interview, *supra* note 23. Compare HB 1420 (HCSFA), 1998 Ga. Gen. Assem., with HB 1420 (SCSFA), 1998 Ga. Gen. Assem.

businesses in nonclassified local directories,<sup>89</sup> to proposed Code section 10-1-393.<sup>90</sup> This move placed the nonclassified directory language in the same Code section as existing language relating to classified directories.<sup>91</sup> While that move also placed the HB 1333 language in the first section of the bill, it did not reflect any intent to reprioritize the various amendments.<sup>92</sup> Rather, the relocation was merely an effort to fit this language into the appropriate Code section.<sup>93</sup> Second, the floor amendment also added language to proposed Code section 10-1-393.6(b) that limited the prohibition against requesting an advanced fee for removing damaging information from a consumer's credit report to those transactions involving telemarketers.<sup>94</sup>

### *House Concurrence*

On the last day of the 1998 session, the House unanimously adopted the Senate floor amendment to HB 1420 without any further changes.<sup>95</sup> Governor Miller signed the bill into law on April 6, 1998.<sup>96</sup>

*Thomas J. Schramkowski*

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89. See text accompanying *supra* notes 23-36 (discussing inclusion of HB 1333 to HB 1420).

90. Compare HB 1420 (HCSFA), § 1, 1998 Ga. Gen. Assem., with HB 1420 (SCSFA), § 1, 1998 Ga. Gen. Assem.

91. See HB 1420 (SCSFA), 1998 Ga. Gen. Assem.

92. See Parsons Interview, *supra* note 23.

93. See *id.*; Polak Interview, *supra* note 5.

94. Compare HB 1420 (HCSFA), 1998 Ga. Gen. Assem., with HB 1420 (SCSFA), 1998 Ga. Gen. Assem.

95. See Georgia House of Representatives website (visited Sept. 28, 1998), <[http://www2.state.ga.us/legis/1997\\_98/votes/vh98715.htm](http://www2.state.ga.us/legis/1997_98/votes/vh98715.htm)>; State of Georgia Final Composite Status Sheet, Mar. 19, 1998. Compare 1998 Ga. Laws 643, with HB 1420 (SCSFA), 1998 Ga. Gen. Assem. (both versions identical).

96. See 1998 Ga. Laws 643, at 648; Georgia Bill Tracking for HB 1420, Apr. 6, 1998, available in LEXIS, States Library, GATRCK file.