

FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES



**ADAM H. PUTNAM
COMMISSIONER**

**COMMERCIAL TELEPHONE SELLER
BUSINESS LICENSE APPLICATION**
Florida Telemarketing Act
Sections 501.601 – 501.626, Florida Statutes
Rule 5J-6.005, Florida Administrative Code

Florida Department of Agriculture and Consumer Services
Commercial Telephone Seller Business License Application

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If you have any questions regarding the Florida Telemarketing Act, please contact the department at (850) 410-3800 or via email at cswbmaster@freshfromflorida.com.

INSTRUCTIONS

General Information

The Florida Telemarketing Act requires non-exempt businesses that engage in the sale of consumer goods or services by telephone to be licensed and post security (surety bond, certificate of deposit, or letter of credit) of no less than \$50,000 prior to soliciting in this state. The law also requires **all** salespersons for these businesses to be licensed. Doing business in this state includes both telephone solicitation from a location in Florida and solicitation from other states or nations of purchasers located in Florida.

Affidavit of Exemption

The law requires certain businesses that solicit sales by telephone, but are not subject to the provisions of the Florida Telemarketing Act, to file an affidavit of exemption with the Florida Department of Agriculture and Consumer Services (FDACS). **The Affidavit of Exemption can be used only if the reason for exemption is among those listed on the affidavit.** If an exemption exists for your business and is listed, complete the Affidavit of Exemption Form and check the applicable exemption(s). If you operate more than one business, check the last box and list the other names and addresses of the businesses on a separate sheet and attach it to the affidavit. At the request of the department, the commercial telephone seller shall provide sales scripts, contracts, and other documentation as needed to verify the validity of the exemption before the affidavit of exemption is accepted for filing. The "receipt of filing" provided by the department must be displayed prior to operating. You are required to present your copy of the affidavit when you renew your business tax receipt or upon the request of the law enforcement agencies of the state of Florida.

CHECKLIST

Item # 1:

Provide the legal name of the applicant. If the applicant is an entity other than a natural person, state the entity's name **exactly** as it appears in its articles of incorporation or organizational document. If using a fictitious name (DBA), provide that name also. If the applicant operates under any other names, provide those names in the spaces listed. Attach a separate sheet if necessary. **Corporate, LLC, and Fictitious Names are verified with the Florida Department of State, Division of Corporations and must match the name exactly as filed.**

Item # 2:

Provide the principal location from which the applicant will be doing business. Include the suite, room or other unit number. If the mailing address (i.e. a generally used post office box) is different from the applicant's street address, provide that address as well. **In order for correspondence to be sent directly to an attorney or other third party, you must insert the attorney's or third party's address as the mailing address for the organization.**

Item # 3:

You must provide a primary telephone number, including the area code, for the applicant. Provide the address for email and website, which will be used for communication purposes.

Item # 4:

Select type of organization or legal form of business, and when and where the business was legally established.

Item # 5:

Provide the applicant's federal employer identification number. **Taxpayers can obtain an FEIN immediately by calling the IRS Business and Specialty Tax Line (800-829-4933).**

Item # 6:

List all parent or affiliated entities as described. If none, check the box marked N/A.

Item # 7:

Answer the criminal and litigation questions for the applicant. Attach the appropriate exhibits.

Item # 8:

List each business or occupation engaged in by the applicant during the three (3) years **immediately preceding** the date of the application and the location thereof.

Item # 9:

List all previous experience of the applicant as a commercial telephone seller or salesperson.

Item # 10:

List true name, current home address, date of birth, and all other names by which known, or previously known, of each officer, director, trustee, shareholder, owner, or partner of the applicant, and of each other person responsible for the management of the business of the applicant. Also, list the same information for any office manager or other person principally responsible for a location from which the applicant will do business.

Item # 11:

List all salespersons. **Note: All salespersons must also be separately licensed; you must complete and return a license application for each salesperson.**

Item # 12:

Provide the complete physical street address of each location from which the applicant will be doing business. If any location is a mail drop, check yes in response to this question. Also list the main telephone number as well as all location phone numbers.

Item # 13:

Answer and attach exhibit as instructed.

Item # 14:

Answer and attach exhibit as instructed.

Item # 15:

Answer and attach exhibit as instructed.

Item # 16:

Answer and attach exhibit as instructed.

Item # 17:

Answer and attach exhibit as instructed.

Item # 18:

Answer and attach exhibit as instructed.

Item # 19:

Provide information for all banking and/or monetary institutions.

Item # 20:

Provide information regarding registered agent.

Item # 21:

Provide a brief description of the product applicant intends to sell.

Item # 22:

Select the form of security you will be providing.

REQUIRED DOCUMENTS

SECURITY - \$50,000

- Surety Bond
- Letter of Credit
- Certificate of Deposit

The security must be issued by a company authorized to transact business in this state. Documents are included in the application package. The commercial telephone seller must maintain the security in effect as long as the license is in effect.

LICENSING APPLICATION FEE - \$1,500; check or money order made payable to FDACS.

Attach and mark the following Exhibits:

- a - If a partnership, provide copy of any written partnership agreement.
b - If a corporation, provide copy of articles of incorporation and bylaws.
- Copies of all scripts or a written statement that no scripts are used referred to on page 5.
- Copies of all sales information provided to salespersons referred to on page 5.
- Copies of all written material sent to actual or prospective purchaser referred to on page 5.
- Copy of terms and conditions a purchaser must satisfy in order to receive any items referred to on page 6.

THE DEPARTMENT DOES NOT REVIEW THE CONTENT OF CONTRACTS OR SCRIPTS WHEN PROCESSING APPLICATIONS FOR LICENSURE. IT IS RECOMMENDED YOU SEEK LEGAL COUNSEL TO ENSURE THESE DOCUMENTS ARE IN COMPLIANCE WITH FLORIDA STATUTES.

Any telemarketing activities must cease immediately until licensed. If you have any questions regarding the Florida Telemarketing Act, please contact the Florida Department of Agriculture and Consumer Services (FDACS) at (850) 410-3800 or via email at cswebmaster@freshfromflorida.com.

FEES

Send completed application and a check or money order made payable to FDACS in the amount of \$1,500 to:

FDACS
Division of Consumer Services
Attn: Telemarketing Program
P.O. Box 6700
Tallahassee, FL 32314-6700



ADAM H. PUTNAM
COMMISSIONER

Florida Department of Agriculture and Consumer Services
Division of Consumer Services

**COMMERCIAL TELEPHONE SELLER
BUSINESS LICENSE APPLICATION**

Florida Telemarketing Act
Sections 501.601 – 501.626, Florida Statutes
Rule 5J-6.005, Florida Administrative Code

1-800-HELP-FLA (435-7352) • 850-410-3800 *Calling Outside Florida*
www.800helpfla.com • 850-410-3804 *Fax*

Submit and Pay Online at:
www.FreshFromFlorida.com

- or -

Check or Money Order payable
to FDACS and remit with
application to:

FDACS
P.O. Box 6700
Tallahassee, FL 32314-6700

All documents and attachments submitted with this application are subject to public review pursuant to Chapter 119, F.S.

Please type or print. Additional pages may be attached if additional space is needed. Please ensure that all attachments reflect organization's name or license number and the number of the corresponding question. **All fees are non-refundable.**

Business Information

1. Name of Business (State the legal name of the entity as registered with the Florida Department of State, Division of Corporations):

Fictitious (DBA) Name:

All fictitious names must be registered with the Florida Department of State, Division of Corporations.

2. Mailing Address (if different from Primary Business Physical Street Address):

Is this a mail-drop: Yes No

City: State: Zip Code: -

Primary Business Physical Street Address (include APT or SUITE # in all address lines):

City: State: Zip Code: -

3. Telephone Number:

Fax Number:

() -

() -

Email Address:

Website:

*Future correspondence may be electronic, so please make sure that the provided email is accurate and valid.

4. Form of organization:

Corporation

LLC

Partnership

Sole Proprietorship

Other (please describe):

If the applicant is a corporation, provide a copy of the articles of incorporation and the bylaws. If the applicant is a partnership, provide a copy of any written partnership agreement.

Date incorporated or legally established:

State:

/ /
Month Day Year

5. Federal Employer ID Number [s. 119.092, F.S.]:

Org Code: 42 10 06 25 000
EO: A2
Object Code: 002050 \$1,500.00

6. List all parent or affiliated entities that will engage in a business transaction with the purchaser relating to any sale solicited by the applicant; or accepts responsibility or is otherwise held out by the applicant as being responsible for any statement or act of the applicant relating to the sale solicited by the applicant: [s. 501.605(2)(i), F.S.] N/A

Parent Legal Name: _____
 Affiliate _____

Fictitious (DBA) Name(s)**: _____ Physical Address: _____

City: _____ State: _____ Zip Code: _____ - _____

Telephone Number:
 (_____) _____ - _____

Form of organization:
 Corporation LLC Partnership Sole Proprietorship Other (please describe): _____

If parent or affiliate is a corporation, partnership or LLC, provide date incorporated or legally established: State: _____
 _____ / _____ / _____
 Month Day Year

Parent Legal Name: _____
 Affiliate _____

Fictitious (DBA) Name(s)**: _____ Physical Address: _____

City: _____ State: _____ Zip Code: _____ - _____

Telephone Number:
 (_____) _____ - _____

Form of organization:
 Corporation LLC Partnership Sole Proprietorship Other (please describe): _____

If parent or affiliate is a corporation, partnership or LLC, provide date incorporated or legally established: State: _____
 _____ / _____ / _____
 Month Day Year

All fictitious names must be registered with the Florida Department of State, Division of Corporations. If **applicant is not an individual then 'Name' is the legal name of the applicant as listed with the Division of Corporations. You must list all names under which you intend to do business.

CRIMINAL AND LITIGATION HISTORY [s. 501.605(2)(d-h), F.S.]

7. Please select either **YES** or **NO** to the questions below for the business entity. If you answered yes to any of the following, please explain your answer below. (attach additional sheets as necessary using the same format)
- a. Has the applicant previously been arrested for, convicted of, or is under indictment or information for, a felony? Conviction includes a finding of guilt where adjudication has been withheld. Yes No
- b. Has the applicant previously been convicted of, under indictment or information for, racketeering or any offense involving fraud, theft, embezzlement, fraudulent conversion, or misappropriation of property? Conviction includes a finding of guilt where adjudication has been withheld. Yes No
- c. Has the applicant ever been convicted of acting as a salesperson without a license, either judicial or administrative, or whether such a license has previously been refused, revoked, or suspended in any jurisdiction? Yes No

- d. Has the applicant worked for, or been affiliated with, a company that has had entered against it an injunction, a temporary restraining order, or a final judgment or order, including a stipulated judgment or order, and assurance of voluntary compliance, or any similar document, in any civil or administrative action involving racketeering, fraud, theft, embezzlement, fraudulent conversion, or misappropriation of property or the use of any untrue, deceptive, or misleading representation or the use of any unfair, unlawful, or deceptive trade practice? Yes No
- e. Has the applicant had entered against him or her an injunction, a temporary restraining order, or a final judgment or order, including a stipulated judgment or order, an assurance of voluntary compliance, or any similar document, in any civil or administrative action involving racketeering, fraud, theft, embezzlement, fraudulent conversion, or misappropriation of property or the use of any untrue, deceptive, or misleading representation or the use of any unfair, unlawful, or deceptive trade practice? Is any litigation pending against the applicant? Yes No

Legal Name: _____ **Court/administrative agency rendering the conviction, judgment, or order:** _____

Governmental agency which brought the action: _____ **Nature of conviction, judgment, order or action:** _____

Date of Action: _____ / _____ / _____ **Docket Number:** _____ **Was adjudication withheld?**
 Yes No

BUSINESS HISTORY

8. List each business or occupation engaged in by the applicant during the 3 years immediately preceding the date of the application and the location thereof. You **must** account for the **last 3 years** whether employed or unemployed. (attach additional sheets as necessary using the same format) [s. 501.605(2)(b), F.S.]

a. From: _____ / _____ / _____ **To:** Present

Title (Occupation): _____

b. From: _____ / _____ / _____ **To:** _____ / _____ / _____

Name of Business: _____

Physical Street Address (if applicable please include suite, apartment and/or unit numbers): _____

City: _____ **State:** _____ **Zip Code:** _____ - _____

Title (Occupation): _____

Name of Business: _____

Physical Street Address (if applicable please include suite, apartment and/or unit numbers): _____

City: _____ **State:** _____ **Zip Code:** _____ - _____

9. Does the applicant have previous experience as a commercial telephone seller or salesperson?
[s.501.605(2)(c), F.S.]

Yes **No** If **yes**, provide previous experience (in months) as a commercial telephone seller or salesperson: _____

10. List the following information for each principal officer, director, trustee, shareholder, owner, or partner of the applicant, and of each other person responsible for the management of the business of the applicant; list all affiliates; list each office manager or other person principally responsible for a location from which the applicant will do business. (attach additional sheets as necessary using the same format)

Legal Name: _____ **Title:** _____

Previous or A.K.A. Names: _____

Date of Birth: _____ / _____ / _____ **Driver's License Number or Government Issued ID:** _____ **State of Issue:** _____

Current Physical Home Address (if applicable please include suite, apartment and/or unit numbers):

City: _____ **State:** _____ **Zip Code:** _____ - _____

Telephone Number: _____ **Email Address:** _____
(_____) _____ - _____

Does this person have previous experience as a commercial telephone seller or salesperson [s. 501.605(2)(c), F.S.]:

Yes **No**

If Yes, Name of Firm: _____

Physical Street Address (if applicable please include suite, apartment and/or unit numbers):

City: _____ **State:** _____ **Zip Code:** _____ - _____

Please select either **YES** or **NO** to the questions below. **If you answered YES** to any of the following, please explain your answer in the fields below. (attach additional sheets as necessary using the same format) [ss. 501.605 and 501.606, F.S.]

- a. Has this person ever been convicted of acting as a salesperson without a license, either judicial or administrative, or whether such a license has previously been refused, revoked, or suspended in any jurisdiction? **Yes** **No**
- b. Has this person been convicted of, or under indictment or information for, racketeering or any offense involving fraud, theft, embezzlement, fraudulent conversion, or misappropriation of property? Conviction includes a finding of guilt where adjudication has been withheld. **Yes** **No**
- c. Is this person involved in pending litigation or has an injunction, temporary restraining order, or final judgment or order, including a stipulated judgment or order, an assurance of voluntary compliance, or any similar document, been ordered against the applicant in any civil or administrative action involving racketeering, fraud, theft, embezzlement, fraudulent conversion, or misappropriation of property, or the use of any untrue, deceptive, or misleading representation, or the use of any unfair, unlawful, or deceptive trade practice? **Yes** **No**
- d. Has this person ever been subject to any litigation, injunction, temporary restraining order, or final judgment or order, including a stipulated judgment, or order, an assurance of voluntary compliance, or any similar document or any restrictive court order relating to a business activity as the result of any action brought by a governmental agency, including any action affecting any license to do business or practice an occupation or trade? **Yes** **No**

e. Has this person at any time during the previous 7 years, filed bankruptcy, been adjudicated bankrupt, or Yes No been reorganized because of insolvency or been a principal, director, officer, or trustee of, or a general or limited partner in, or had responsibilities as a manager in, any corporation, partnership, joint venture, or other entity that filed for bankruptcy, was adjudged bankrupt, or was reorganized because of insolvency within 1 year after the person held that position?

Legal (True) Name:

Court/administrative agency rendering the conviction, judgment, or order:

Governmental agency which brought the action:

Nature of conviction, judgment, order or action:

Date of Action:

Docket Number:

Was adjudication withheld?

Yes No

11. List all salespersons or other persons employed by the applicant. All salespersons must be separately licensed (see form FDACS-10005, Commercial Telephone Salesperson Individual License Application, Rev. 08/13). Use a separate sheet for each person. **Provide a statement if you have no salesperson(s) at the current time.**

Please select either **YES** or **NO** to the questions below. **If you answered YES** to any of the following, please explain your answer in the fields below. (attach additional sheets as necessary using the same format) [s. 501.606, F.S.]

Legal Name:

Previous or A.K.A. Name(s):

Current Home Address:

City:

State:

Zip Code:

Date of Birth:

Has this person been convicted of, or under indictment or information for, racketeering or any offense involving Yes No fraud, theft, embezzlement, fraudulent conversion, or misappropriation of property? Conviction includes a finding of guilt where adjudication has been withheld.

Is this person involved in pending litigation or has an injunction, temporary restraining order, or final judgment or order, an assurance of voluntary compliance, or any similar document, been ordered against the applicant in any civil or administrative action involving racketeering, fraud, theft, embezzlement, fraudulent conversion, or misappropriation of property, or the use of any untrue, deceptive, or misleading representation, or the use of any unfair, unlawful, or deceptive trade practice? Yes No

Has this person ever been subject to any litigation, injunction, temporary restraining order, or final judgment or order, including a stipulated judgment, or order, an assurance of voluntary compliance, or any similar document or any restrictive court order relating to a business activity as the result of any action brought by a governmental agency, including any action affecting any license to do business or practice an occupation or trade? Yes No

Has this person at any time during the previous 7 years, filed bankruptcy, been adjudicated bankrupt, or been Yes No reorganized because of insolvency or been a principal, director, officer, or trustee of, or a general or limited partner in, or has responsibilities as a manager in, any corporation, partnership, joint venture, or other entity that filed for bankruptcy, was adjudged bankrupt, or was reorganized because of insolvency within 1 year after the person held that position?

Legal (True) Name:

Court/administrative agency rendering the conviction, judgment, or order:

Governmental agency which brought the action:

Nature of conviction, judgment, order or action:

Date of Action:

Docket Number:

Was adjudication withheld?

Yes No

12. List all locations from which the applicant will be doing business and include a **list of all phone numbers associated with each address**. (attach additional sheets as necessary using the same format) [s. 501.605(2)(j-k), F.S.]

a. Legal Name of Business: _____			
Physical Street Address (if applicable please include suite, apartment and/or unit numbers): _____			Is this a mail-drop? <input type="checkbox"/> Yes <input type="checkbox"/> No
City: _____	State: _____	Zip Code: _____ - _____	
Main Telephone Number: (_____) _____ - _____	Name of Location Manager: _____		

Location Phone Numbers:
--

b. Legal Name of Business: _____			
Physical Street Address (if applicable please include suite, apartment and/or unit numbers): _____			Is this a mail-drop? <input type="checkbox"/> Yes <input type="checkbox"/> No
City: _____	State: _____	Zip Code: _____ - _____	
Main Telephone Number: (_____) _____ - _____	Name of Location Manager: _____		

Location Phone Numbers:
--

c. Legal Name of Business: _____			
Physical Street Address (if applicable please include suite, apartment and/or unit numbers): _____			Is this a mail-drop? <input type="checkbox"/> Yes <input type="checkbox"/> No
City: _____	State: _____	Zip Code: _____ - _____	
Main Telephone Number: (_____) _____ - _____	Name of Location Manager: _____		

Location Phone Numbers:
--

d. Legal Name of Business:

Physical Street Address (if applicable please include suite, apartment and/or unit numbers):

Is this a mail-drop?

Yes No

City: _____ State: _____ Zip Code: _____

Main Telephone Number: _____ Name of Location Manager: _____

(_____) _____ - _____

Location Phone Numbers:

e. Legal Name of Business:

Physical Street Address (if applicable please include suite, apartment and/or unit numbers):

Is this a mail-drop?

Yes No

City: _____ State: _____ Zip Code: _____

Main Telephone Number: _____ Name of Location Manager: _____

(_____) _____ - _____

Location Phone Numbers:

Questions numbered 13 – 17, check only “a,” “b,” or “c” (if applicable) and complete those selected requirements.

13. **a.** Attached and marked Exhibit 2 are copies of all sales scripts given to those soliciting for the applicant. [s. 501.605(2)(l)3, F.S.]

b. The applicant does not use sales scripts.

14. **a.** Attached and marked Exhibit 3 are copies of all sales information or literature the applicant provides to salespeople or of which the applicant informs to applicant’s salespeople (including, but not limited to, scripts, outlines, instructions and information regarding how to conduct telephonic sales, sample introductions, sample closings, product information and contest or premium award information.) [s. 501.605(2)(l)3, F.S.]

b. The applicant does not provide salespersons with or inform salespersons of any sales information or literature described in 12(a).

15. **a.** Attached and marked Exhibit 4 are copies of all written material the applicant sends to any prospective or actual purchaser. [s. 501.605(2)(l)3, F.S.]

b. The applicant does not send any written material to any prospective or actual purchaser.

16. **a.** The applicant informs prospective or actual purchasers that the purchaser is eligible to receive certain items which may be referred to as gifts, premium, bonuses, prizes, or otherwise, and **EACH** of the following apply: [s. 501.614, F.S.]

- The item(s) is/are offered unconditionally;
- The buyer has seven (7) days to return the goods or cancel services;

- The buyer will receive a full refund in thirty (30) days;
- The buyer has the right to keep the gift, premium, bonus or prize without cost.

- b. If the applicant or applicant's salespeople represent or imply to prospective or actual purchasers that the purchaser will receive certain specific items or one or more items from among designated items, or a certificate of any type which the purchaser must redeem to obtain the item described in the certificate, whether the items are referred to as gifts, premiums, bonuses, prizes, or otherwise, list the following:

Item offered: _____

Price or value of worth: \$ _____

Basis for valuation: _____

Price paid by applicant: \$ _____

Supplier's Name: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Telephone Number: _____

- c. Does not apply.

(Attach additional sheets as necessary using the same format)

- 17.** a. A purchaser receives all of the items described by applicant's salespeople. [s. 501.614(5), F.S.]

- b. Complete the following in the event a purchaser does not actually receive all of the items described by the seller or salesperson:

- Applicant decides which item or items a particular prospective purchaser is to receive in the following manner:

- The odds a single prospective purchaser has of receiving each item described is:

- The name and address of each recipient who has during the preceding 12 months (or if applicant has not been in business that long, during the period applicant has been in business) received any gift, premium, bonus prize:

Name: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Name: _____

Address: _____

City: _____ State: _____ Zip Code: _____

(Attach additional sheets as necessary using the same format)

- c. Applicant does not represent or imply prospective or actual purchasers will receive certain specific items, one or more items among designated items, or a certificate of any type which the purchaser must redeem to obtain the item described in the certificate.

- 18.** Attached and marked as Exhibit 5 is a copy of the written statement of terms and conditions provided to the purchaser. [s. 501.614(3), F.S.]

19. Provide the following information for EACH institution where banking or similar monetary transactions are done by the applicant: [s. 501.606(3), F.S.]

Name of Institution:	Name of Contact Person:
_____	_____
Telephone Number: (_____) _____ - _____	Account Number(s): _____
Physical Street Address (if applicable please include suite, apartment and/or unit numbers): _____	
City: _____	State: _____ Zip Code: _____ - _____

Name of Institution:	Name of Contact Person:
_____	_____
Telephone Number: (_____) _____ - _____	Account Number(s): _____
Physical Street Address (if applicable please include suite, apartment and/or unit numbers): _____	
City: _____	State: _____ Zip Code: _____ - _____

20. Name and address of agent in Florida who is authorized to receive service of process:

Legal Name:

Current Physical Address (if applicable please include suite, apartment and/or unit numbers):

City: _____ **State:** _____ **Zip Code:** _____ - _____

Telephone Number:
(_____) _____ - _____

Email Address:

21. Brief description of product(s) sold and/or service(s) provided:

22. IN ADDITION TO THE DOCUMENTS REQUIRED ABOVE, PLEASE ATTACH ONE OF THE FOLLOWING FORMS OF SECURITY IN THE MINIMUM AMOUNT OF \$50,000.

Surety Bond

Letter of Credit

Certificate of Deposit

The security must be issued by a company authorized to transact business in this state. Documents are included in the application package. You must maintain the security as long as the license is in effect.

LICENSING FEE - \$1,500, Check or Money order made payable to FDACS.

Verification and Signature

I understand that the Florida Department of Agriculture and Consumer Services will conduct a background investigation of the individuals listed in the application.

I hereby give my permission and waive any provisions of law that forbid any court, police agency, employer, firm, or person, from disclosing any knowledge or information they have concerning me which is requested by the Florida Department of Agriculture and Consumer Services. I further consent and request that the Division Director of the Division of Consumer Services, or the Director's representative, be provided with a certified copy of any such record concerning me which they may deem necessary in the performance of their investigation.

Any commercial telephone seller or salesperson who falsifies information on an application commits a felony of the third degree, punishable as provided in s. 775.082, 775.083, or 775.084, F.S.

I DECLARE UNDER PENALTY OF PERJURY THAT ALL OF THE INFORMATION PROVIDED IN THIS APPLICATION, AND IN ANY EXHIBITS ATTACHED HERETO, IS TRUE AND CORRECT.

Signature

Print Name

(_____) _____ - _____
Telephone Number

Date

Florida Department of Agriculture and Consumer Services
Division of Consumer Services



ADAM H. PUTNAM
COMMISSIONER

**COMMERCIAL TELEPHONE SELLER
AFFIDAVIT OF EXEMPTION**

Florida Telemarketing Act
Sections 501.601 – 501.626, Florida Statutes
Rule 5J-6.013, Florida Administrative Code

1-800-HELP-FLA (435-7352) • 850-410-3800 *Calling Outside Florida*
www.800helpfla.com • 850-410-3804 *Fax*

Send completed application to:

FDACS
Telemarketing Program
2005 Apalachee Parkway
Tallahassee, FL 32399-6500

All documents and attachments submitted with this affidavit are subject to public review pursuant to Chapter 119, F.S.

PLEASE TYPE OR PRINT. Additional sheets using the same format may be attached if additional space is needed.
Please ensure that all attachments reflect the organization's name and the number of the corresponding question.

Business Information

1. Legal Name of Business (Legal name as registered with the Florida Department of State, Division of Corporations):

Fictitious (DBA) Name:

All fictitious names must be registered with the Florida Department of State, Division of Corporations.

2. Mailing Address (if different Primary Business Physical Street Address): **Is this a mail-drop:** Yes No

City: _____ **State:** _____ **Zip Code:** _____ - _____

Primary Business Physical Street Address (include APT or SUITE # in all address lines, mail drop not allowed):

City: _____ **State:** _____ **Zip Code:** _____ - _____

3. Telephone Number: _____ **Fax Number:** _____
(_____) _____ - _____ (_____) _____ - _____

Email Address: _____ **Website:** _____

Future correspondence may be electronic, so please make sure that the provided email is accurate and valid.

4. Federal Employer ID Number (FEIN):
_____ - _____

5. List all locations from which you will be doing business, that are intended to be covered under this affidavit.
(attach additional sheets as necessary using the same format)

Legal Name of Business: _____ _____
Physical Street Address (if applicable please include suite, apartment and/or unit numbers): _____ _____
City: _____ State: _____ Zip Code: _____ - _____

Legal Name of Business:

Physical Street Address (if applicable please include suite, apartment and/or unit numbers):

City:

State:

Zip Code:

Legal Name of Business:

Physical Street Address (if applicable please include suite, apartment and/or unit numbers):

City:

State:

Zip Code:

Check here if no additional locations are to be covered under this affidavit. N/A

Basis for Exemption

STATE OF: _____

COUNTY OF: _____

Personally appeared before me, the undersigned authority _____,
Name of Person Making Statement

whose title is _____ of _____
Title of Person Making Statement Name of Business

located in _____ located at _____
City, State and Zip Code Street Address

who, having first made due oath or affirmation, says:

This business is exempt from the licensing requirements of the Florida Telemarketing Act, Chapter 501, Part IV, Florida Statutes, because it meets the requirements of the following exemption(s): CHECK ALL THAT APPLY

- §501.604(2), F.S., exempts a person soliciting for religious, charitable, political, or educational purposes. A person soliciting for noncommercial purposes is exempt only if that person is soliciting for a nonprofit corporation and if that corporation is properly registered as such with the Secretary of State and is included within the exemption of s. 501(c)(3) or s. 501(c)(6) of the Internal Revenue Code.
- §501.604(3), F.S., exempts a person who does not make the major sales presentation during the telephone solicitation and who does not intend to, and does not actually, complete or obtain provisional acceptance of a sale during the telephone solicitation, but who makes the major sales presentation and completes the sale at a later face-to-face meeting between the seller and the prospective purchaser in accordance with the home solicitation provisions in this chapter. However, if a seller, directly following a telephone solicitation, causes an individual whose primary purpose it is to go to the prospective purchaser to collect the payment or deliver any item purchased, this exemption does not apply.
- §501.604(5), F.S., exempts a person primarily soliciting the sale of a newspaper of general circulation.
- §501.604(6), F.S., exempts a book, video, or record club or contractual plan or arrangement: (a) Under which the seller provides the consumer with a form which the consumer may use to instruct the seller not to ship the offered merchandise. (b) Which is regulated by the Federal Trade Commission trade regulation concerning "use of negative option plans by sellers in commerce." (c) Which provides for the sale of books, records, or videos which are not covered under paragraphs (a) or (b), including continuity plans, subscription arrangements, standing order arrangements, supplements, and series arrangements under which the seller periodically ships merchandise to a consumer who has consented in advance to receive such merchandise on a periodic basis.

- §501.604(9), F.S., exempts a person soliciting the sale of services provided by a cable television system operating under authority of a franchise or permit.
- §501.604(10), F.S., exempts a business-to-business sale where: (a) The commercial telephone seller has been operating continuously for at least 3 years under the same business name and has at least 50 percent of its dollar volume consisting of repeat sales to existing businesses; (b) The purchaser business intends to resell or offer for the purposes of advertisement or as a promotional item the property or goods purchased; or (c) The purchaser business intends to use the property or goods purchased in a recycling, reuse, remanufacturing, or manufacturing process.
- §501.604(11), F.S., exempts person who solicits sales by periodically publishing and delivering a catalog of the seller's merchandise to prospective purchasers, if the catalog: (a) Contains a written description or illustration of each item offered for sale. (b) Includes the business address or home office address of the seller. (c) Includes at least 20 pages of written material and illustrations and is distributed in more than one state. (d) Has an annual circulation by mailing of not less than 150,000.
- §501.604(12), F.S. exempts a person who solicits contracts for the maintenance or repair of goods previously purchased from the person making the solicitation or on whose behalf the solicitation is made.
- §501.604(17), F.S., exempts a business soliciting exclusively the sale of telephone answering services provided that the telephone answering services will be supplied by the solicitor.
- §501.604(21), F.S., exempts a person soliciting business from prospective consumers who have an existing business relationship with or who have previously purchased from the business enterprise for which the solicitor is calling, if the solicitor is operating under the same exact business name.
- §501.604(22), F.S., exempts a person who has been operating, for at least 1 year, a retail business establishment under the same name as that used in connection with telemarketing, and both of the following occur on a continuing basis: (a) Either products are displayed and offered for sale or services are offered for sale and provided at the business establishment. (b) A majority of the seller's business involves the buyer obtaining such products or services at the seller's location. If applying for this exemption, please provide all documentation required in Rule 5J-6.013(2), Florida Administrative Code.
- §501.604(24), F.S., exempts any person which has been lawfully providing telemarketing sales services continuously for at least 5 years under the same ownership and control and which derives 75 percent of its gross telemarketing sales revenues from contracts with persons exempted in this section.
- §501.604(26), F.S., exempts a publisher, or an agent of a publisher by written agreement, who solicits the sale of the publisher's periodical or magazine of general, paid circulation. The term "paid circulation" shall not include magazines that are only circulated as part of a membership package or that are given as a free gift or prize from the publisher or agent of the publisher by written agreement.

This affidavit is made to claim an exemption from the licensing requirements of the Florida Telemarketing Act in order that the affiant's business may obtain a business tax receipt. I understand that §501.616(4), F.S., provides it is unlawful for any commercial telephone seller or salesperson to engage in non-exempt commercial telephone solicitation activities without a license and provides for civil penalties of up to \$10,000 per violation in §501.619, F.S. In addition, §501.623(3), F.S., provides that any commercial telephone seller or salesperson who engages in non-exempt telemarketing activities without a license commits a felony of the third degree. Should the nature of these business activities change, the department shall be notified immediately of the change so that a new determination of the applicability of the Act can be made at that time.

Affiant's Signature _____
Date

Sworn to (or affirmed) and signed before me, this _____ day of _____, 20 _____,
by _____, who is personally known to me or who has produced as identification.

MY COMMISSION EXPIRES:

SEAL/STAMP

(Notary Public Signature)

(Notary Public Name, Please Print)

TELEMARKETING SURETY BOND

Florida Telemarketing Act
Sections 501.601 – 501.626, Florida Statutes
Rule 5J-6.005, Florida Administrative Code

1-800-HELP-FLA (435-7352) • 850-410-3800 *Calling Outside Florida*
www.800helpfla.com • 850-410-3804 *Fax*

Return completed form to:

FDACS
Telemarketing Program
2005 Apalachee Parkway
Tallahassee, FL 32399-6500

Surety Bond Number:

Effective Date of Surety Bond:

_____ / _____ / _____

KNOWN ALL BY THIS PRESENT INSTRUMENT that we,

Principal (Applicant/Registrant)

Legal Name (If applicant is not a natural person, state the legal name as registered with the Florida Department of State followed by fictitious/dba name):

Physical Street Address:

City: _____ **State:** _____ **Zip Code:** _____ - _____

Mailing Address (if different from above):

City: _____ **State:** _____ **Zip Code:** _____ - _____

Telephone Number:
(_____) _____ - _____

Fax Number:
(_____) _____ - _____

Email Address:

AND

Surety

Legal Name (Full legal name of Surety):

Physical Street Address:

City: _____ **State:** _____ **Zip Code:** _____ - _____

Mailing Address (if different from above):

City: _____ **State:** _____ **Zip Code:** _____ - _____

Telephone Number:
(_____) _____ - _____

Fax Number:
(_____) _____ - _____

Bond # _____

which Surety is authorized to do business and issue surety bonds in the State of Florida, are held firmly bound unto the State of Florida, Department of Agriculture and Consumer Services, ("Obligee") in the sum of \$50,000.00 for the use and benefit of any consumer who is injured as a result of the fraud, misrepresentation, breach of contract, financial failure or violation of sections 501.601-501.626, F.S., the Florida Telemarketing Act, by the Principal in the Principal's capacity as a licensee under the Florida Telemarketing Act. This bond shall be amenable to and enforceable by and through administrative proceedings before the Department or through an action brought by an injured consumer or brought by the Department or any other governmental agency on behalf of an injured consumer. NOW, THEREFORE, the condition of this obligation is such that if the Principal complies with all duties and requirements of a licensee under the Florida Telemarketing Act, and shall not injure a consumer by fraud, misrepresentation, breach of contract, financial failure or violation of the Florida Telemarketing Act, as may be subsequently amended, then this obligation shall be void. Otherwise this obligation shall remain in force and effect in law subject, however, to the following limitations:

1. That the Obligee (state of Florida) shall notify the Surety of any default of the Principal hereunder, at the earliest possible time following the discovery of such default.
2. That the Surety shall promptly notify the Obligee in writing of any changes in either the Principal or amount of bond set forth above. However, failure of the Surety to provide such notice shall not affect the validity of this bond.
3. That if the Surety shall so elect, this bond may be canceled by giving 30 days written notice to the Obligee. Said notice shall contain the full name, city, and state where the Principal is located, and the commercial telephone seller license number assigned to the Principal by the Obligee. The Surety, however, will remain liable for any default occurring during the period up to the expiration of said 30 day notice and such 30 day period shall begin only upon receipt of said notice by the Obligee.
4. This bond shall be subject to partial claims but, in no event shall the Surety be liable for a total amount greater than that shown above.

This bond is effective this _____ day of _____, 20 _____, 12:01 A.M., standard time and shall continue in force until canceled.

In witness hereof, the Principal and Surety have executed this instrument through their respective undersigned representatives, who are fully authorized to execute this instrument, on the _____ day of _____, 20 _____.

Principal

Witness

Signature (Seal)

Witness

Title

Full Legal Name of Principal

Surety

Witness

Signature (Seal)

Witness

Title

Local Agent

Name of Local Agent

Address

Contact Person

Contact Telephone Number

NOTE: The Department shall not accept for filing a Commercial Telephone Seller Irrevocable Letter of Credit by a bank whose deposits are not insured by an agency of the Federal Government

Commercial Telephone Seller Irrevocable Letter of Credit

Name (Legal name as registered with the Florida Department of State (if applicable) followed by fictitious/dba name):

Physical Street Address of Commercial Telephone Seller:

City: _____ **State:** _____ **Zip Code:** _____ - _____

Mailing Address (if different from above):

City: _____ **State:** _____ **Zip Code:** _____ - _____

Telephone Number: (_____) _____ - _____ **Fax Number:** (_____) _____ - _____

Email Address:

Letter of Credit Number: _____ **Date of Letter of Credit:** _____ / _____ / _____ **Date of Expiration:** _____ / _____ / _____

(Name of Issuer) ("Issuer") does hereby establish this

Irrevocable Letter of Credit in the name of _____
(Legal name and complete address of registrant/licensee as registered with the Department)

("Principal"), in the aggregate amount of \$50,000 available by draft at sight, for the benefit of the Florida Department of Agriculture and Consumer Services ("Department"), pursuant to section 501.611, F.S. Drafts made under this Irrevocable Letter of Credit shall be marked "Drawn under Irrevocable Letter of Credit Number _____," and must be accompanied by any one of the following:

Written notice by the Department that the Principal failed to comply with all duties and requirements of a licensee under sections 501.601-501.626, F.S., the Florida Telemarketing Act, as may be subsequently amended, and/or has failed to pay its liabilities after such liabilities have been adjudged between Principal and a consumer, and a final order of the Department has been entered against Principal, copy of the final order being attached to such notice, **OR**

Written notice by the Department that the Principal failed to comply with all duties and requirements of a licensee under sections 501.601-501.626, F.S., the Florida Telemarketing Act, as may be subsequently amended, and/or has failed to pay its liabilities after such liabilities have been adjudged between Principal and a consumer in an action brought by the consumer or the Department or other governmental agency on behalf of the consumer, and a judgment of a court of competent jurisdiction has been entered against Principal, copy of the final judgment being attached to such notice, **OR**

Written notice by the Department that the Principal, after reasonable notice, failed to perform its obligations to any consumer under the terms of any agreement entered into by Principal in the capacity as a licensee under sections 501.601-501.626, F.S., the Florida Telemarketing Act, **OR**

Written notice by the Department that the Principal is insolvent or is no longer in active operation or is otherwise unable to meet its obligations to any consumer and that the Principal is not satisfying said obligations.

Partial draft by the Department is permitted and surrender of this Irrevocable Letter of Credit will not be required for endorsements in such event.

The Issuer guarantees all drafts made under and in compliance with this Irrevocable Letter of Credit will be honored when before _____ (*Date of Expiration*), or during any Irrevocable Period of extension of this Letter of Credit.

This Irrevocable Letter of Credit shall be in effect, without amendment, until the date set forth in the previous paragraph. This Irrevocable Letter of Credit automatically shall be extended for additional one (1) year periods, each commencing immediately upon the expiration of the prior period, unless at least ninety (90) days prior to the expiration date the Issuer notifies the Department in writing that the Issuer elects not to extend this Irrevocable Letter of Credit.

This Irrevocable Letter of Credit is governed by the following:

- A. The laws of the state of Florida, as amended subsequent to the effective date of this Irrevocable Letter of Credit, including without limitation Chapter 675, F.S., all other statutes, all other acts of the Florida Legislature, and all administrative regulations applicable to this Irrevocable Letter of Credit, the Issuer, or the Principal;
- B. To the extent the following are not in conflict with Chapter 675, F.S., any other law of the State of Florida, or any administrative regulations applicable to this Irrevocable Letter of Credit, the Issuer, or the Principal, the provisions of (*the Issuer may designate only one of the following conventions to the exclusion of the terms of the alternate; failure to so designate excludes all terms of the following*):

_____ International Standby Practices ISP 98 Publication 590

_____ Uniform Customs and Practice for Documentary Credits (2007 Rev.), ICC Publication 600.

Venue for any administrative proceeding or judicial action arising from this Irrevocable Letter of Credit, including any action to enforce its terms against the Issuer, shall be in Leon County, Florida.

Authorized Signature and Title of Financial Institution Officer

Printed Name and Title of Authorized Officer

Authorization: Attached and incorporated into this Irrevocable Letter of Credit is a true copy of the written designation, delegation, or other official authorization from the Issuer to the above-named Officer to execute this Irrevocable Letter of Credit as a binding obligation of the Issuer. **The Department shall not accept any Irrevocable Letter of Credit which does not include the foregoing authorization as an attachment.**

NOTE: The Department shall not accept for filing a Commercial Telephone Seller Certificate of Deposit Assignment by a bank whose deposits are not insured by an agency of the Federal Government.

Commercial Telephone Seller Certificate of Deposit Assignment Form

_____ (Legal name of person applying for Commercial Telephone Seller License), Assignor, does hereby assign, transfer, and set over unto the Florida Department of Agriculture and Consumer Services, Assignee, all right, title, and interest to and in Certificate of Deposit Number _____ entitled and issued by _____ (Name and address of Depository), Depository, in the amount of \$50,000, excluding interest payable thereon. This assignment is made as security pursuant to Sections 501.601-501.626, Florida Statutes, the Florida Telemarketing Act, for _____ (Legal Name and address of Commercial Telephone Seller)

This assignment includes any substitution or renewals to the Certificate of Deposit described, is conditioned on Assignor's compliance with all duties and requirements of a licensee under sections 501.601-501.626, Florida Statutes, the Florida Telemarketing Act, as may be subsequently amended, and shall remain in effect until the Assignee renders its order of withdrawal authorizing Depository to disburse any amount remaining under the Certificate of Deposit.

Assignee is authorized to draw against the above Certificate of Deposit pursuant to the Florida Telemarketing Act, and Depository is directed to pay up to the Principal Sum to Assignee upon demand. Partial draft is permitted. Any payments made pursuant to this assignment shall constitute acquittance of Depository. Depository shall not pay any portion of the Principal Sum to Assignor or any other party without prior written order from the Assignee. This Certificate of Deposit may not be encumbered in any way, and any attempted encumbrance is void.

Signature of Assignor

Date

Depository Acknowledgement of Assignment

The Assignor's signature above compares correctly with our files. Principal Sum is \$_____, and the above assignment will be considered valid and honored until an order of final withdrawal is received from Assignee.

Depository Name:

Address:

City:

State:

Zip Code:

Telephone Number:

(_____) _____ - _____

Name of Authorized Depository Officer:

Title of Authorized Depository Officer:

Signature of Authorized Depository Officer

Date