

Florida Department of Agriculture and Consumer Services
Division of Consumer Services



WILTON SIMPSON
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
www.FDACS.gov • (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. Attach additional pages as necessary using the same format. 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. Primary Business Physical Street Address (include APT or SUITE # in all address lines.):

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

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

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

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 other 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) 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 paragraph (a) or paragraph (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 lawfully 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 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 subsection 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 his or her 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)