Monday, August 31, 2020

Well folks the Governor of Louisiana declared a state of emergency today ahead of the expected landfall of Tropical Storm/Hurricane Laura and Tropical Depression 14/Tropical Storm/Hurricane Marco.

Obviously all of us here at TCPAworld.com are rooting for everyone in the path of those storms to come out of this safe and sound.

For callers—particularly marketers—making calls to consumers within the state of Louisiana it is important to take note of the impact of this declaration of emergency on your ability to call.

Take a look at Louisiana Laws Revised Statutes Section 45:844.31.

Per that section, “[d]uring a state of emergency as declared by the governor, no telephonic solicitor shall engage in telephonic solicitation except [as specified below.]”

The statute broadly defines telephonic solicitation to include “any voice or data communication made by a telephonic solicitor to a residential telephonic subscriber for the purpose of encouraging a sale or rental of or investment in property, consumer goods, or services; or for the purpose of encouraging an extension of
credit for property, consumer goods, or services; or for the purpose of obtaining information that will or may be used for the direct solicitation of a sale or rental of or investment in property, consumer goods, or services or an extension of credit for such purposes; or for the solicitation of a contribution to a charitable organization, except for the American Red Cross.”

So if you’re calling residential numbers in Louisiana and you aren’t the Red Cross, look out.

Some key exemptions, however:

- **Calls can continue if the telephonic solicitation is in response to an express request of the person called**... But note that aged leads won’t pass muster as consent for purposes of this section expires six months after the “express request” is granted.

- Calls can continue in **connection with existing debt or contract, payment or performance of which has not been completed at the time of such call.**

- Calls can be made to any person with whom the telephonic solicitor has an existing business relationship, or a prior business relationship that was terminated or lapsed within six months of such call.

- The telephonic solicitation is on behalf of **an organization, which has nonprofit status** under Section 501(c)(3) or (6) of the Internal Revenue Code, unless such organization utilizes the services of a paid professional solicitor, as defined in R.S. 51:1901(6).

- The telephonic solicitation is for the **purpose of conducting marketing research**, public opinion polling, or similar activities that does not involve telephonic solicitation or selling or obtaining information that will or may be used for telephonic solicitation or selling.

- The **telephonic solicitation constitutes political activity**. (i.e. calls for the sole purpose of urging support for or opposition to a political candidate or ballot issue provided that the callers identify themselves or calls made for the sole purpose of conducting political polls or soliciting the expression of opinions, ideas, or votes or calls made by any newspaper or periodical in the state, which is qualified to be the official journal of the state or any parish, municipality, school board, or other political subdivision, as provided by Chapters 2 and 4 of Title 43 of the Louisiana Revised Statutes of 1950.)

So although unsolicited marketing calls must cease, the great residents of the State of Louisiana can still expect to receive unsolicited political robocalls. Fun.

As always: i) this blog is not legal advice, just trying to inform-consult a lawyer if you have concerns or need help with this stuff; and ii) the TCPA and the National DNC and TSR rules are also lurking ADDITIONAL bodies of law. Just because this Emergency Declaration does not apply to you—if that is the case—does NOT mean you
are in the clear to make calls.

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