

## State and Federal Definitions of Established Business Relationship for Do-Not-Call Laws

	<b>Relevant Statutory Language and Citation</b>	<b>Inquiry Calls <u>Not</u> Included in EBR Exemption<sup>1</sup></b>
<b>Federal Definitions</b>		
TCPA	<p>“A prior or existing relationship formed by a voluntary two-way communication between a person or entity and a residential subscriber with or without an exchange of consideration, on the basis of the subscriber’s purchase or transaction with the entity within <u>18 months</u> immediately preceding the date of the telephone call or on the basis of the subscriber’s inquiry or application regarding products or services offered by the entity within the 3 months immediately preceding the date of the call, which relationship has not been previously terminated by either party.</p> <p>The subscriber’s seller-specific do-not-call request, as set forth in (d)(3) of this section, terminates an established business relationship for purposes of telemarketing and telephone solicitation even if the subscriber continues to do business with the subscriber.</p> <p>The subscriber’s established business relationship with a particular business entity does not extend to affiliated entities unless the subscriber would reasonably expect them to be included given the nature and type of goods or services offered by the affiliate and the identity of the affiliate.”</p> <p>47 C.F.R. 64.1200(f)(3).</p>	
TSR	<p>“A relationship between a seller and a consumer based on: (1) the consumer’s purchase, rental, or lease of the seller’s goods or services or a financial transaction</p>	

<sup>1</sup> If state statutory language does not specify whether inquiry calls, i.e. when no transaction or purchase is involved, are included within the definition of “established business relationship”, this chart assumes that these calls are included within the definition of “established business relationship” and are therefore exempt pursuant to state law.

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	between the consumer and seller, within the <u>eighteen (18) months</u> immediately preceding the date of the telemarketing call; or (2) the consumer's inquiry or application regarding a product or service offered by the seller, within the three (3) months immediately preceding the date of a telemarketing call." 16 C.F.R. § 310.2(n).	
<b>State</b>		
Alabama	Prior or existing business relationships. Al. Code § 8-19A-3(19). (This term is not further defined).	
Alaska	When "a person soliciting business from prospective purchasers who have, within the last <u>18 months</u> , purchased from the person making the solicitation or from the business enterprise for which the person is calling but only if the person or business enterprise has not received a written request from the prospective purchaser asking that telephone solicitations cease." Alaska Code § 45.50.475(g)(4)(B)(v).	Calls made in response to a request or inquiry by the called customer are exempt. Alaska Code § 45.50.475(g)(4)(B)(i)
Arizona	Federal definition applies. See above.	
Arkansas	<p>"A relationship in which some financial transaction has transpired between the consumer and the telephone solicitor or its affiliates within the <u>thirty-six (36) months</u> immediately preceding the contemplated telephone solicitation.</p> <p>The term does not include the situation wherein the consumer has merely been subject to a telephone solicitation by or at the behest of the telephone solicitor or its affiliates within the thirty-six (36) months immediately preceding the contemplated telephone</p>	<p style="font-size: 24pt;">X</p> <p>Financial transaction is required to form an established business relationship.</p>

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	solicitation.” Ark. Code § 4-99-403 (5).	
California	<p>“A relationship between a seller and a subscriber based on the subscriber’s purchase, rental, or lease of the seller’s goods or services or a financial transaction between the consumer and seller, within the <u>18 months</u> immediately preceding the date of the telemarketing call.” Cal. Bus. &amp; Prof. Code § 17592(e)(4).</p>	<p>Calls made at the express request of the consumer, including when the subscriber’s name and telephone number have been provided as a referral by a solicitor with which the subscriber has an established business relationship if that solicitor has obtained the subscriber’s express request for the referral, <u>are exempt</u> unless the call is made 30 business days after the last date on which the subscriber contacted a business with the purpose of inquiring about the potential purchase of goods or services.</p> <p>Please note that California distinguishes “express request” from “express consent”.</p>
Colorado	<p>“A relationship that: (i) was formed prior to the telephone solicitation, through a voluntary, two-way communication between a seller or telephone solicitor and a residential subscriber, with or without consideration, on the basis of an application, purchase, ongoing contractual agreement, or commercial transaction between the parties regarding products or services offered by such seller or telephone solicitor; and (ii) has not been previously terminated by either party; and (iii) currently exists or has existed or has existed within the immediately preceding <u>(18) eighteen months.</u>”</p> <p>“With respect to a financial institution or affiliate, as those terms are defined in section 527 of the federal Gramm-Leach-Bliley Act of 1999, includes any situation in which a financial institution or affiliate makes solicitation calls related to other financial services</p>	<p>Inquiry calls are exempt “for thirty days after a residential subscriber has contacted a business to inquire about the potential purchase of goods or services or until the subscriber requests that no further calls be made, whichever occurs first.”</p>

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	<p>offered, if the financial institution or affiliate is subject to the requirements regarding privacy of Title V of the federal Gramm-Leach-Bliley Act of 1999, and the financial institution or affiliate regularly conducts business in Colorado.”</p> <p>C.R.S. 6-1-903(7).</p> <p>C.R.S. 6-1-903(10)(b)(III).</p>	
Connecticut	<p>“To an existing customer, unless such customer has stated to the telephone solicitor that such customer no longer wishes to receive the telephonic sales calls of such telephonic solicitor.” Conn. Gen. Stat. § 42-288a(9)(c). (This term is not further defined).</p>	
Delaware	No state “do-not-call” list.	
D.C.	No state “do-not-call” list.	
Florida	<p>Prior or existing business relationship. Fla. Stat. § 501.059(1)(c)(3). (This term is not further defined under Florida statute, however the Florida Court of Appeals has adopted the federal standard of 18 months for purchases stated in the TCPA set forth above. Based on this Court’s ruling, it would likely adopt the federal standard for inquiries as well, but did not address the inquiry exemption directly).<sup>2</sup></p>	
Georgia	Prior or current business relationship. Ga. Code § 46-5-27(b)(3)(B). (This term is not	

<sup>2</sup> TSA Stores, Inc. v. Dep’t of Agric. & Consumer Serv., 957 So. 2d 25, 29-30 (Fla. Ct. App. 2007).

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	further defined).	
Hawaii	No state “do-not-call” list.	
Idaho	“A relationship that was formed, prior to a telephone solicitation, through a voluntary, two-way communication between a seller or telephone solicitor and a residential subscriber, with or without consideration, on the basis of an application, purchase, ongoing contractual agreement, or commercial transaction between the parties regarding products or services offered by such seller or telephone solicitor; has not been terminated by either party; and currently exists or has existed within the immediately preceding eighteen (18) months.” Idaho Code § 48-1002(3).	
Illinois	<p>“Existence of an oral or written transaction, agreement or other legal state of affairs involving a person or entity and an existing customer under which both parties have a course of conduct or established pattern of activity for commercial or mercantile purposes and for the benefit of profit for both parties. A pattern of activity does not necessarily mean multiple previous contacts. The relationship must exist between the existing customer and the person or entity directly, and does not extend to any related business entity or other business organization of the person or entity or related to the person or entity or the person or entity’s agent including but not limited to a parent corporation, subsidiary partnership, company, or other corporation or affiliate.” 815 ILCS 402/5(b).</p> <p>“Existing customer means an individual who has either entered into a transaction, agreement, contract, or other legal state of affairs between a person or entity and a residential subscriber under which the payment or exchange of consideration for any goods or services has taken place within the preceding <u>18 months</u> or has been</p>	<p>*However calls are not made at the express request of the consumer if:</p> <p>(A) The telephone solicitation is made 30 business days after the last date on which the subscriber contacted a business with the purpose of inquiring about the potential purchase of goods or services;</p> <p>(B) The telephone solicitation is made 30 business days after the last date on which the subscriber consented to be contacted; or</p> <p>(C) The telephone solicitation is made 30 business days after a product or service</p>

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	arranged to take place at a future time or opened or maintained a debit account, credit card account, or other credit or discount program offered by or in conjunction with the person or entity and has not requested the person or entity to close such account or terminate such program.” 14 Ill. Admin. Code § 300.20.	becomes available where the subscriber has made a request to the business for that product or service that is not then available, and requests a call when the product or service becomes available.
Indiana	No exemption. Calls regarding a transaction not yet completed are exempt, only. Ind. Code §24-4.7-1-1	X
Iowa	No state “do-not-call” list.	
Kansas	“A prior or existing business relationship formed by a voluntary two-way communication between a person or entity and consumer with or without an exchange of consideration, on a basis of an application, purchase or transaction by the consumer, within the preceding <u>36 months</u> , regarding products or services offered by such person or entity, which relationship has not been previously terminated by either party.” K.S.A. § 50-670(a)(6).	
Kentucky	A prior or existing business relationship includes, but is not limited to “the solicitation of contracts for the maintenance or repair or items previously purchased from the person making the solicitation or on whose behalf the solicitation is made.” K.R.S. § 367.46951(2)(c).  The following factors will also be taken into consideration in determining the existence of a prior or existing business relationship: 1. Whether the relationship was formed prior to the telephone solicitation, by a	X  Mutual exchange of consideration is considered in determining the existence of a business relationship.

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	<p>voluntary two-way communication between the telemarketer or merchant and the consumer;</p> <ol style="list-style-type: none"> <li>2. Whether the relationship involves commercial or mercantile activity, including goods or services;</li> <li>3. Whether the relationship involves a mutual exchange of consideration;</li> <li>4. Whether the relationship has been previously terminated by either party, including the consumer's termination of the relationship by informing the telemarketer or merchant; and</li> <li>5. Whether a reasonable consumer would expect the business relationship to extend to related business entities or organizations of the telemarketer or merchant, including parent or subsidiary corporations, partnerships, or affiliates.</li> </ol> <p>40 K.A.R. 2: 076E(2).</p>	
Louisiana	<p>"To any person with whom the telephonic solicitor has an existing business relationship, or a prior business relationship that was terminated or lapsed within <u>(6) six months</u> of such call." La. Rev. Stat. 45:844.12(4)(c).</p>	
Maine	<p>"A prior or existing relationship formed by a voluntary 2-way communication between a telephone solicitor and a consumer with or without an exchange of consideration on the basis of the consumer's purchase from or transaction with the telephone solicitor within the <u>18 months</u> immediately preceding the date of a telephone sales call or on the basis of the consumer's inquiry or application regarding products or services offered by the telephone solicitor within the <u>3 months</u> immediately preceding the date of the call that has not been previously terminated by the consumer pursuant to subparagraph (1) or by the telephone solicitor." 2007 Me. S.B. 783 (10 Me. Stat. § 1499-B(D-1)).</p>	
Maryland	<p>No state "do-not-call" list.</p>	

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Massachusetts	An “existing customer” is “a residential telephone subscriber with whom the person or entity making a telephonic sales call has maintained an account or had a business relationship within the previous <u>24 months</u> . Mass. Gen. Laws, Ch. 159C, § 1.	
Michigan	An “existing customer” is “an individual who has purchased goods or services from a person, who is the recipient of a voice communication from that person, and who either paid for the goods or services within the <u>12 months</u> preceding the voice communication or has not paid for the goods and services at the time of the voice communication because of a prior agreement between the person and the individual.” Mich. Comp. Laws § 445.111(j).	X  Purchase is required in order to be an existing customer.
Minnesota	Prior or current business relationship. Minn. Stat. § 325E.311 (6)(2) (This term is not further defined).	
Mississippi	<p>“Established business relationship means a prior or existing relationship formed by a voluntary two-way communication between a person or entity and a consumer, with or without an exchange of consideration, on the basis of any inquiry, application, purchase or transaction by the consumer, which relationship is currently existing or was terminated within <u>(6) six months</u> of the telephone solicitation.</p> <p>However, the act of purchasing consumer goods or services under an extension of credit does not create an existing business relationship between the consumer and the entity extending credit to the consumer for such purchase. The term does not include the situation wherein the consumer has merely been subject to a telephone solicitation by or at the behest of the telephone solicitor within the six (6) months immediately preceding the contemplated telephone solicitation.” Miss. Code § 77-7-705(h).</p>	

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Missouri	“By or on behalf of any person or entity with whom a residential subscriber has had a business contact within the past <u>one hundred eighty (180) days</u> or a current business or personal relationship.” R.S. Mo. § 407.1095(3)(b).	
Montana	“By or on behalf of any person or entity with whom a residential subscriber has had a business contact within the past <u>180 days</u> or has a current business or personal relationship.” Mont. Code 30-14-1601(4)(b).	
Nebraska	No state “do-not-call” list.	
Nevada	<p>“A telephone call is deemed to have been solicited if it is made to a person who ... had an established business relationship with the caller, if the call is made solely to verify the termination of the business relationship.” .</p> <p>“The provisions of Section 14 of this Act do not prohibit a telephone solicitor from making or causing another person to make an unsolicited telephone call for the sale of goods or services to a telephone number in the currently effective version of the list of telephone numbers in the currently effective version of the list of telephone numbers in the registry if there is a preexisting business relationship between the telephone solicitor and the person who is called.”</p> <p>*Telephone solicitors must maintain an internal do-not-call list and provide written annual notification of the option to be placed on this list to customers with whom there is a pre-existing business relationship. Nev. Stat. § 228.600(1).</p> <p>"Preexisting business relationship means a relationship between a telephone solicitor and a person that is based on (A) the person's purchase, rental or lease of goods or</p>	<p style="font-size: 24pt;">X</p> <p>Purchase or financial transaction is required in order to form an established business relationship.</p>

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	services directly from the telephone solicitor, but not from any affiliate or associate of the telephone solicitor; or (B) any other financial transaction directly between the person and the telephone solicitor, but not between the person and any affiliate or associate of the of the telephone solicitor, that occurs within the <u>18 months</u> immediately preceding the date of the unsolicited telephone call for the sale of goods or services.” <i>Id.</i> at (4).	
New Hampshire	“A relationship between a seller and a consumer based on: (1) the consumer’s purchase, rental, or lease of the seller’s goods or services or a financial transaction between the consumer and seller, within the <u>eighteen (18) months</u> immediately preceding the date of the telemarketing call; or (2) the consumer’s inquiry or application regarding a product or service offered by the seller, within the <u>three (3) months</u> immediately preceding the date of a telemarketing call.” N.H. Code § 359-E:7(V).	
New Jersey	<p>1. Calls to “established customers” whose names are on the “do-not-call” list are allowed, as long as the call relates to the “provision of continuing services and does not relate to expanded services, upgrades, products or other services unless directly related to the particular service or services previously provided.” N.J. Reg. 13:45D-4.4.</p> <p>“Established customer” is “a customer for whom a seller has previously provided continuing services where the relationship has not been affirmatively or constructively terminated.” N.J. Reg. 13:45D-1.3</p> <p>“Continuing services” means “the performance of work, the provision of medical care or other professional services or the affording of access to a utility, typically provided to an established customer on a recurring basis.” <i>Id.</i></p> <p>2. Sales calls to “existing customers” whose names are on the “do-not-call” list are allowed as long as the caller maintains an internal “do-not-call” list. Affiliates are not permitted to make calls to existing customers of a business if those consumers’ names are on the state do-not-call list.</p>	<p>X</p> <p>Calls allowed only relating to continuing services, payments owed to the seller, an existing written contract with the seller, or a past extension of credit by a seller within the last 18 months or until the credit obligation is satisfied.</p>

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	<p>“Existing customers” are customers who are obligated to make payments to a seller or who have entered into a written contract with a seller. N.J. Reg. 13:45D-1.1</p> <p>“Existing customers” also include customers with whom a seller’s sole obligation is the extension of credit which is made within 18 months of the date of the customer’s last credit transaction or until the satisfaction of the credit obligation, whichever is later.” N.J. Reg. 13:45D-4.2</p>	
New Mexico	<p>“Established business relationship means a relationship that was formed, prior to a telephone solicitation, through a voluntary, two-way communication between a seller or telephone solicitor and a residential subscriber, with or without consideration, on the basis of an application, purchase, ongoing contractual agreement or commercial transaction between the parties regarding products or services offered by the seller or telephone solicitor and currently exists or has existed within the immediately preceding <u>twelve (12) months</u>.” N.M. Stat. § 57-12-22(D)(1)</p>	
New York	<p>“Established business relationship shall mean a prior or existing relationship formed by a voluntary two-way communication between a consumer and a telemarketer with or without an exchange of consideration, on the basis of the consumer’s purchase or transaction with the telemarketer within the <u>eighteen (18) months</u> immediately preceding the date of the telephone call or on the basis of the consumer’s inquiry or application regarding products or services offered by the telemarketer within the <u>three (3) months</u> immediately preceding the date of the call, which relationship has not been previously terminated by either party.” 21 NYCRR § 4603.2(b).</p> <p>“Existing customer shall mean a prior or existing relationship formed by a voluntary two-way communication between a consumer and a telemarketer with or without an</p>	

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	exchange of consideration, on the basis of the consumer's purchase or transaction with the telemarketer within the <u>eighteen (18) months</u> immediately preceding the date of the telephone call or on the basis of the consumer's inquiry or application regarding products or services offered by the telemarketer with the <u>three (3) months</u> immediately preceding the date of the call, which relationship has not been previously terminated by either party." 21 NYCRR§ 4603.2(c).	
North Carolina	"A relationship between a seller and a consumer based on: A) the consumer's purchase, rental or lease of the seller's goods or services or a financial transaction between the consumer and the seller or one or more of its affiliates within the <u>18 months</u> immediately preceding the date of a telephone solicitation; or B) the consumer's inquiry or application regarding a product or service offered by the seller within the <u>three months</u> immediately preceding the date of a telephone solicitation." N.C. Gen. Stat. § 75-101(5)	
North Dakota	"Established business relationship means a relationship between a seller and a consumer based on a free trial newspaper subscription or on the consumer's purchase, rental, or lease of the seller's goods or services or a financial transaction between the consumer and seller within the <u>twenty-four months</u> immediately preceding the date of a telemarketing call. N.D. Code § 51-28-01(4).	X  Purchase or financial transaction is required in order to form an established business relationship.
Ohio	Federal definition applies. See above.	
Oklahoma	"A prior relationship formed within the preceding <u>twenty-four (24) months</u> or an existing relationship formed by a voluntary two-way communication between a person or entity and a residential subscriber with or without an exchange of consideration, on the basis	

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	of an inquiry, application, purchase, or transaction by the residential subscriber regarding products or services offered by such person or entity, which relationship has not been previously terminated by either party.” 15 Ok. St. 775B.2(3).	
Oregon	“Telephone solicitation” does not include “a person soliciting business from prospective purchasers who have previously purchased from: (A) the person making the solicitation; (B) the business enterprise for which the person is calling; or (C) a predecessor of the business enterprise for which the person is calling.” O.R.S. § 646.569(2)(b).	Calls made in response to a request or inquiry by the called party are exempt. O.R.S. § 646.567(5)(a).
Pennsylvania	“A prior or existing relationship formed by a voluntary two-way communication between a person or entity and a residential telephone subscriber with or without an exchange of consideration, on the basis of an inquiry, application, purchase or transaction by the residential telephone subscriber regarding products or services offered by such persons or entity (within the last <u>12 months</u> ). In regard to an inquiry, the person or entity shall obtain the consent of a residential telephone subscriber to continue the business relationship beyond the initial inquiry.” 73 P.S. § 2242	
Rhode Island	No state “do-not-call” list.	
South Carolina	No state “do-not-call” list.	
South Dakota	(1)Formed by the person's purchase or transaction with the telephone solicitor, or any business or financial institution on whose behalf the call is made, within the eighteen months immediately preceding the date of the telephone call; or	

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	(2) Formed on the basis of the person's inquiry or application regarding products or services offered by the telephone solicitor, or any business or financial institution on whose behalf the call is made, within the three months immediately preceding the date of the call. The relationship must not have been previously terminated by either party. S.D. Stat. § 49-31-1.6	
Tennessee	“An ‘existing customer’ includes a residential subscriber with whom the person or entity making a telephone solicitation has had a prior relationship within the prior <u>twelve (12) months</u> .” Tenn. Code Ann. § 65-4-401(6)(B)(iii).	
Texas	<p>“A prior or existing relationship of a person formed by a voluntary two-way communication between a person and a consumer regardless of whether consideration is exchanged, regarding consumer goods or services offered by the person, that has not been terminated by either party.” Tex. Bus. &amp; Com. Code § 44.002(4); 16 TAC 26.37(c)(2).</p> <p>“A business relationship that has been terminated by either party, if the call is made before the later of (i) the date of publication of the first Texas no-call list on which the no-call registrant’s telephone number appears; or, (ii) 12 months r after the date of termination.” 16 TAC 26.37(e)(2).</p>	
Utah	<p>“Established business relationship” means a relationship that:</p> <ul style="list-style-type: none"> <li>(I) is based on inquiry, application, purchase or transaction regarding products or services offered;</li> <li>(II) is formed by a voluntary two-way communication between a person making a telephone solicitation and a person to whom a telephone solicitation is made; and</li> </ul>	

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	(III) has not been terminated by: (A) an act of either party; or (B) the passage of <u>18 months</u> since the most recent inquiry, application, purchase, transaction, or voluntary two-way communication. Utah Code 13-25a-102(4)	
Vermont	Established business relationship. 9 V.S.A. 2464a(a)(7)(B)(iv). (This term is not further defined).	
Virginia	"A relationship between the called person and the person on whose behalf the telephone solicitation call is being made based on: (i) the called person's purchase from, or transaction with, the person on whose behalf the telephone solicitation call is being made within the <u>18 months</u> immediately preceding the date of the call or (ii) the called person's inquiry or application regarding any property, good, or service offered by the person on whose behalf the telephone solicitation call is being made within the <u>three months</u> immediately preceding the date of the call." Va. Code § 59.1-510.	
Washington	No state "do-not-call" list.	N/A
West Virginia	No state "do-not-call" list.	N/A
Wisconsin	"The telephone solicitation is made to a recipient who is a current client of the person selling the property, goods, or services that is the reason for the telephone solicitation. This paragraph does not apply if the recipient is a current client of an affiliate of such a person, but is not a current client of such a person." Wis. Stat. § 100.52(6)(b).	X  Purchase is required in order to be considered a client.

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## State and Federal Definitions of Established Business Relationship for Do-Not-Call Laws

	<b>Relevant Statutory Language and Citation</b>	<b>Inquiry Calls <u>Not</u> Included in EBR Exemption<sup>1</sup></b>
	<p>A caller is allowed one telephone call to determine whether a former client mistakenly allowed a contractual relationship to lapse. ATCP § 127.80(10)(f).</p> <p>“Client” means “a person who has a current agreement to receive, from the telephone caller or the person on whose behalf the call is made, property, goods, or services of the type promoted by the telephone call.” ATCP § 127.80 (2).</p>	
Wyoming	<p>“A prior or existing relationship formed by a voluntary two-way communication between a seller or telephone solicitor and a consumer with or without an exchange of consideration, on the basis of an inquiry, application, purchase or transaction by the consumer regarding products or services offered by such seller or telephone solicitor which relationship has not been previously terminated by either party.” Wyoming Code § 40-12-301(a)(vi).</p>	

### Summary of Time Requirements:

1. If inquiry made within 3 months of call or purchase by consumer within 18 months of call: federal, Alabama, Arizona, Connecticut, Florida, Georgia, Idaho, Kansas, Maine, Massachusetts, Minnesota, New Hampshire, New York, North Carolina, Ohio, Oklahoma, South Dakota, Utah, Vermont, Virginia, Wyoming.
2. If inquiry made within 1 month of call or purchase by consumer within 18 months of call: California, Colorado, Illinois
3. If purchase made within 18 months of call: Alaska, Arkansas, Kentucky, Nevada, North Dakota, Oregon.
4. If inquiry or purchase by consumer within 12 months of call: New Mexico, Pennsylvania, Tennessee, Texas.
5. If purchase by consumer within 12 months of call: Michigan.
6. If purchase or inquiry by consumer within 6 months of call: Louisiana, Mississippi, Missouri, Montana.
7. Current client

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## State and Federal Definitions of Established Business Relationship for Do-Not-Call Laws

- a. Current purchase required: Wisconsin.
  - b. Continuing services provided or consumer obligated to make payments: New Jersey.
8. No exemption: Indiana.
9. No state "do-not-call list": Delaware, D.C., Hawaii, Iowa, Maryland, Nebraska, Rhode Island, South Carolina, Washington, West Virginia.

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