

I received an email concerning FAXes and cannot find the corresponding item on your web site. Are we trying to stop FAXes because we can't get written permission because they can't FAX written permission without our written permission?? Doesn't make sense to me. The entire message follows. Please advise. Thanks.

Last week in the RLI HotSheet we notified you of a recent FCC ruling regarding the federal Telephone Consumer Protection Act (TCPA). This ruling will impact your business if you communicate by Fax. Following are the details of the ruling, the extent to which you will be impacted, the penalties that

- > can be levied, and what to do to prepare for it. If you have any questions about this, please contact RLI at RLI@realtors.org or 800.441.5263.

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> THE NEW RULE

- > The FCC has ruled that you must receive a written and signed CONSENT in order to send any fax regarding properties, RFPs, or any other business matter. It no longer will make any difference if they are persons or companies with which you already have an established business relationship. This ruling

- > applies not only to your unsolicited faxes but also if a person or company calls to request that you fax them business information. You would be violating the ruling, and would be liable to severe penalties, if you faxed the documents without first obtaining a signed written consent. The new rule
- > doesn't just pertain to clients or customers, but also to vendors, prospects, or anyone who makes a casual request such as "please fax me information about your property listing.

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> EFFECTIVE DATE

- > Unless it is stayed or rescinded, the ruling goes into effect AUGUST 25.

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> PENALTIES

- > Violation of the TCPA would subject companies to potential FCC enforcement, state enforcement, and more importantly, a private lawsuit for up to \$1,500 per violation (\$500 per violation, which can be trebled if the violation is knowing and willful). Many fear that the private right of action will

- > incentivize people to file suits upon receipt of unsolicited faxes.

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> TAKE ACTION NOW

- > If your company does business by facsimile you need to immediately obtain written permission to send faxes. Until the new fax rules become effective on August 25, 2003 you can send faxes seeking written consent. After August 25 doing this type of solicitation for permission by fax would violate the
- > rules. However, receiving the signed forms by facsimile is acceptable even after August 25th.

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> RECOURSE

- > NAR, the American Society of Association Executives, and a number of other organizations and individuals have asked the FCC to rescind, or at least stay, its ruling. If you would like to add your voice, go to the FCC online at <http://www.fcc.gov/cgb/ecfs/> Click on "Submit a Filing," enter Proceeding
- > #02-278, your contact information, and your comments, then click "Send."

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> CONSENT FORM

- > Prior to faxing anything that relates to anything remotely "commercial" you must first obtain signed consent that clearly gives permission to be faxed and the fax number at which a fax will be permitted. All of your faxes

must be identified, at the top or bottom of each transmitted page, with the
> date and time the message is sent; the sender's identity; the telephone
number of the sending fax machine; and the sender's legal name as registered
with a state corporation commission. If a fax broadcast service is used and
that entity is responsible for the content of the fax or for supplying the
> fax numbers of recipients to which the faxes are sent, then the fax
broadcaster's name also must be identified in the header. A consent form
that provides people the opportunity to "opt out" from being faxed is not
acceptable because if someone doesn't opt out and later objects to receiving
a fax,
> you will be liable for penalties and lawsuits.
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> Here are the elements that your consent form must contain:
> 1. Printed Name: either an individual or of a company or organization
> 2. Printed Name of person authorized to consent if it is a company or
organization
> 3. Fax number(s) for which consent is being provided:
> 4. The Consent Statement needs to be worded so that the respondent
consents to receive faxes from (list your company and any other companies or
organizations on whose behalf the request for consent is being made).
> 5. Signature:
> 6. Date:
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> If you have any questions about this please contact RLI at
RLI@REALTORS.org or 800.441.5263.
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