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New Fax Law Developments

Last week, the House passed a bill that mirrors the "Junk Fax Prevention Act" recently passed by the Senate. Both bills prohibit commercial faxes from being sent to consumers or businesses unless there is either an established business relationship (EBR) or written consent from the consumer or business. The bills reflect a compromise that allows marketers to continue sending such faxes when there is an EBR.

In the wake of this development, the Federal Communications Commission (FCC) issued an extension to a rule that would ban unsolicited commercial faxes to customers. This extension was originally scheduled to go into effect on July 1, 2005; however, the ban will now go into effect on January 9, 2006, unless President Bush signs the "Junk Fax Prevention Act" before that date.

To view the full details of the FCC's order, visit

http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-05-132A1.doc.

Also of note, the passage of New Jersey Assembly Bill 669 was recently signed into law creating a general rule prohibiting unsolicited advertisements through fax machines. Beginning December 1, 2005, unsolicited advertisement faxes will be prohibited except for not-for-profit entities and those with an established business relationship. The New Jersey bill demonstrates a developing trend of increased state regulation in this area.