

S T A T E O F N E W Y O R K

2995--A

2011-2012 Regular Sessions

I N A S S E M B L Y

January 21, 2011

Introduced by M. of A. MAISEL, M. MILLER, McDONOUGH, ROBERTS, STEVENSON, N. RIVERA, COLTON, JAFFEE, WEPRIN -- Multi-Sponsored by -- M. of A. CALHOUN, CROUCH, JACOBS, MARKEY, MONTESANO -- read once and referred to the Committee on Consumer Affairs and Protection -- recommitted to the Committee on Consumer Affairs and Protection in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general business law, in relation to prohibiting the unsolicited mailing of convenience checks to consumers

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The general business law is amended by adding a new section
2 520-d to read as follows:
3 S 520-D. UNSOLICITED CONVENIENCE CHECKS. 1. AS USED IN THIS SECTION,
4 THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:
5 (A) "CHECK" MEANS ANY NEGOTIABLE INSTRUMENT, AS DEFINED BY SECTION
6 3-104 OF THE UNIFORM COMMERCIAL CODE, THAT HAS IMPRINTED ON IT THE HOLD-
7 ER'S NAME AND THE DEPOSITORY INSTITUTION'S NAME, LOCATION, AND ROUTING
8 NUMBER.
9 (B) "UNSOLICITED CHECK" MEANS ANY CHECK MAILED OR OTHERWISE DELIVERED
10 TO A HOLDER BY AN ISSUER OR AGENT ACTING ON BEHALF OF AN ISSUER FOR THE
11 PURPOSE OF DRAWING ON AN EXISTING ACCOUNT THAT IS AN EXTENSION OF CREDIT
12 OR ACTIVATING AN ACCOUNT TO OBTAIN CREDIT OTHER THAN:
13 (1) IN RESPONSE TO A REQUEST OR APPLICATION FOR A CHECK OR ACCOUNT; OR
14 (2) AS A SUBSTITUTE FOR A CHECK OR ACCOUNT PREVIOUSLY ISSUED TO THE
15 PERSON TO WHOM THE CHECK IS MAILED OR OTHERWISE DELIVERED.
16 2. NO HOLDER IN WHOSE NAME AN UNSOLICITED CHECK IS ISSUED SHALL BE
17 LIABLE FOR ANY AMOUNT RESULTING FROM USE OF THAT CHECK OR ACCOUNT,
18 UNLESS THE HOLDER HAS ACCEPTED THE CHECK OR ACCOUNT BY USING THE CHECK
19 OR ACCOUNT. FAILURE TO DESTROY OR RETURN AN UNSOLICITED CHECK SHALL NOT
20 CONSTITUTE ACCEPTANCE OF THE CHECK OR ACCOUNT.

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets [] is old law to be omitted.

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1 3. ANY AGREEMENT ENTERED INTO BY A HOLDER WHICH WAIVES, LIMITS OR
2 DISCLAIMS THE RIGHTS SET FORTH IN THIS SECTION SHALL BE VOID AS CONTRARY
3 TO PUBLIC POLICY.
4 S 2. This act shall take effect immediately.