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I N   A S S E M B L Y

January 10, 2012

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Introduced by M. of A. DINOWITZ, REILICH -- read once and referred to  
the Committee on Consumer Affairs and Protection

AN ACT to amend the general business law, in relation to cancellation of  
membership camping contracts

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

1     Section 1. The general business law is amended by adding a new section  
2     654-a to read as follows:

3     S 654-A. CANCELLATION OF MEMBERSHIP CAMPING CONTRACTS. 1. FOR THE  
4     PURPOSES OF THIS SECTION THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING  
5     MEANINGS:

6     A. "ADULT CARE FACILITY" SHALL HAVE THE SAME MEANING AS SUCH TERM IS  
7     DEFINED IN SUBDIVISION TWENTY-ONE OF SECTION TWO OF THE SOCIAL SERVICES  
8     LAW, PROVIDED, HOWEVER, THAT FOR THE PURPOSES OF THIS SECTION THE TERM  
9     "ADULT CARE FACILITY" SHALL NOT INCLUDE A SHELTER FOR ADULTS;

10    B. "DOMESTIC PARTNER" SHALL HAVE THE SAME MEANING AS SUCH TERM IS  
11    DEFINED IN SUBDIVISION SEVEN OF SECTION TWENTY-NINE HUNDRED  
12    NINETY-FOUR-A OF THE PUBLIC HEALTH LAW.

13    C. "RESIDENTIAL HEALTH CARE FACILITY" SHALL HAVE THE SAME MEANING AS  
14    SUCH TERM IS DEFINED IN SUBDIVISION THREE OF SECTION TWENTY-EIGHT  
15    HUNDRED ONE OF THE PUBLIC HEALTH LAW; AND

16    D. "SHELTER FOR ADULTS" SHALL HAVE THE SAME MEANING AS SUCH TERM IS  
17    DEFINED IN SUBDIVISION TWENTY-THREE OF SECTION TWO OF THE SOCIAL  
18    SERVICES LAW.

19    2. A. UPON THE EXPIRATION OF THE CANCELLATION PERIOD PROVIDED UNDER  
20    SECTION SIX HUNDRED FIFTY-FOUR OF THIS ARTICLE, A PURCHASER OF A MEMBER-  
21    SHIP CAMPING CONTRACT SHALL HAVE THE RIGHT TO CANCEL SUCH CONTRACT UNDER  
22    THE FOLLOWING CONDITIONS:

23    (1) THERE IS A MATERIAL BREACH OF CONTRACT BY THE MEMBERSHIP CAMP-  
24    GROUND OPERATOR TO PROVIDE THE ESSENTIAL SERVICES AND PROGRAMS AS SET  
25    FORTH AND IN THE MANNER PROVIDED IN THE MEMBERSHIP CAMPING CONTRACT. A  
26    NATURAL DISASTER OR PHENOMENA, FAILURE OR SHORTAGE OF ELECTRIC POWER OR  
27    OTHER SOURCE OF ENERGY, UNAUTHORIZED OR ILLEGAL ACTS, LABOR STRIKES OR  
28    DISPUTES DISRUPTING OPERATIONS, OR GOVERNMENTAL, JUDICIAL, OR LAW

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

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1 ENFORCEMENT ACTIONS SHALL NOT BE A BASIS FOR CANCELLATION, UNLESS THE  
2 MEMBERSHIP CAMPGROUND OPERATOR FAILS TO DILIGENTLY RESTORE SUCH SERVICES  
3 AND PROGRAMS WITHIN A REASONABLE PERIOD OF TIME; OR

4 (2) THE PURCHASER HAS RELOCATED TO A PERMANENT RESIDENCE NOT LESS THAN  
5 FIVE HUNDRED MILES FROM THE CAMPGROUND OR THE LOCATION OF ANY OTHER  
6 CAMPGROUND AVAILABLE TO THE PURCHASER PURSUANT TO ONE OR MORE RECIPROCAL  
7 PROGRAMS OUTLINED IN THE MEMBERSHIP CAMPING CONTRACT; OR

8 (3) THE PURCHASER, OR THE PURCHASER'S SPOUSE OR DOMESTIC PARTNER  
9 CURRENTLY RESIDES IN OR IS NOTIFIED OF AND ACCEPTS THE OPPORTUNITY TO  
10 COMMENCE OCCUPANCY IN AN ADULT CARE FACILITY OR A RESIDENTIAL HEALTH  
11 CARE FACILITY AND THE PURCHASER PROVIDES A COPY OF SUCH NOTIFICATION OR  
12 PROOF OF RESIDENCY TO THE OPERATOR; OR

13 (4) THE PURCHASER OR THE PURCHASER'S SPOUSE OR DOMESTIC PARTNER  
14 RECEIVES A WRITTEN CERTIFICATION FROM A PHYSICIAN STATING THAT THE  
15 PURCHASER OR THE PURCHASER'S SPOUSE OR DOMESTIC PARTNER IS BEDRIDDEN,  
16 HOUSEBOUND, OR SIMILARLY PHYSICALLY UNABLE DUE TO AILMENT OR INJURY TO  
17 VISIT THE CAMPGROUND AND MATERIALLY UTILIZE ANY OF THE SERVICES AND  
18 PROGRAMS AS OUTLINED IN THE MEMBERSHIP CAMPING CONTRACT, AND SUCH CONDI-  
19 TION IS NOT EXPECTED TO BE TEMPORARY. THE PURCHASER MUST PROVIDE A COPY  
20 OF SUCH CERTIFICATION TO THE OPERATOR; OR

21 (5) THE PURCHASER OF A CONTRACT SIGNED BY MORE THAN ONE PURCHASER  
22 PROVIDES TO THE OPERATOR A COPY OF ANY OF THE FOLLOWING, WITHIN SIX  
23 MONTHS OF ITS ISSUANCE, INVOLVING DOMESTIC VIOLENCE BY ANOTHER SIGNATORY  
24 OF THE SAME CONTRACT: (A) A VALID DOMESTIC VIOLENCE INCIDENT REPORT FORM  
25 AS SUCH TERM IS DEFINED IN SUBDIVISION FIFTEEN OF SECTION EIGHT HUNDRED  
26 THIRTY-SEVEN OF THE EXECUTIVE LAW; (B) A VALID POLICE REPORT; (C) A  
27 VALID ORDER OF PROTECTION; OR (D) A SIGNED AFFIDAVIT FROM A LICENSED  
28 MEDICAL OR MENTAL HEALTH CARE PROVIDER, EMPLOYEE OF A COURT ACTING WITH-  
29 IN THE SCOPE OF HIS OR HER EMPLOYMENT, SOCIAL WORKER, A RAPE CRISIS  
30 COUNSELOR AS DEFINED IN SECTION FORTY-FIVE HUNDRED TEN OF THE CIVIL  
31 PRACTICE LAW AND RULES, OR ADVOCATE ACTING ON BEHALF OF AN AGENCY THAT  
32 ASSISTS DOMESTIC VIOLENCE VICTIMS. PARAGRAPH D OF THIS SUBDIVISION SHALL  
33 NOT APPLY TO A PURCHASER CANCELING UNDER THIS SUBPARAGRAPH. A CLAIM FOR  
34 TERMINATION UNDER THIS SUBPARAGRAPH SHALL BE MADE IN GOOD FAITH. TERMI-  
35 NATION UNDER THIS SUBPARAGRAPH SHALL REQUIRE, AND THE PROVISION OF ANY  
36 OF THE ITEMS IN (A) THROUGH (D) OF THIS SUBPARAGRAPH, FOR THE PURPOSES  
37 OF THIS SUBPARAGRAPH, SHALL BE PRESUMPTIVE EVIDENCE OF THE CONTINUED  
38 EXISTENCE OF A SUBSTANTIAL RISK OF PHYSICAL OR EMOTIONAL HARM TO THE  
39 PURCHASER OR PURCHASER'S CHILD. PROVISION OF ANY OF THE ITEMS IN (A)  
40 THROUGH (D) OF THIS SUBPARAGRAPH SHALL GIVE THE OPERATOR, AT ITS OPTION,  
41 THE RIGHT TO INVESTIGATE AND, BASED ON THE INFORMATION CONTAINED IN SUCH  
42 ITEMS, IF HE OR SHE DETERMINES THAT THE SAFETY OF CAMPGROUND USERS OR  
43 EMPLOYEES WOULD BE ENDANGERED BY ALLOWING THE PURCHASER THAT IS NOT  
44 EXERCISING HIS OR HER RIGHTS UNDER THIS SUBDIVISION TO REMAIN AUTHORIZED  
45 TO USE THE CAMPGROUND FACILITIES, THE OPERATOR SHALL PROVIDE WRITTEN  
46 NOTICE OF SUCH DETERMINATION TO SUCH PURCHASER WHICH SHALL INFORM SUCH  
47 PURCHASER OF HIS OR HER RIGHT TO RESPOND IN WRITING TO THE OPERATOR  
48 WITHIN THIRTY DAYS OF RECEIPT OF SUCH NOTICE. UPON EXPIRATION OF THE  
49 THIRTY DAY PERIOD, IF THE OPERATOR REASONABLY DETERMINES THAT THE  
50 RESPONSE FROM THE PURCHASER NOT EXERCISING HIS OR HER RIGHTS UNDER THIS  
51 SUBDIVISION IS INSUFFICIENT, THE OPERATOR MAY TERMINATE THE CONTRACT OF  
52 SUCH PURCHASER.

53 B. WHEN A PURCHASER CANCELS A CONTRACT PURSUANT TO THIS SUBDIVISION  
54 SUCH PURCHASER SHALL BE REQUIRED TO HAVE PAID THE PURCHASE PRICE OF HIS  
55 OR HER MEMBERSHIP IN FULL, AS WELL AS ALL OUTSTANDING FEES, DUES, OR ANY  
56 OTHER PAYMENTS DUE AT THE TIME OF CANCELLATION AND FOR NINETY DAYS THER-

1 EAFTER. HOWEVER, IF ALL OF THE PURCHASERS WHO SIGNED THE CONTRACT DIE,  
2 THE RELEVANT ESTATE OR ESTATES SHALL BE RELIEVED OF ANY FURTHER OBLI-  
3 GATION UNDER THE CONTRACT NOT THEN DUE AND OWING.

4 C. WRITTEN NOTIFICATION OF THE INTENT TO CANCEL A MEMBERSHIP CAMP-  
5 GROUND CONTRACT SHALL BE SIGNED BY THE PURCHASER OR HIS OR HER LEGALLY  
6 DESIGNATED REPRESENTATIVE AND DELIVERED TO THE OPERATOR BY CERTIFIED  
7 MAIL DULY ADDRESSED TO THE OPERATOR. SUCH NOTIFICATION SHALL INCLUDE A  
8 WRITTEN STATEMENT THAT CERTIFIES THAT THE REPRESENTATIONS ARE TRUE AND  
9 CORRECT, AND CONTAIN NO MATERIAL OMISSIONS OF FACT TO THE BEST KNOWLEDGE  
10 AND BELIEF OF THE PERSON SUBMITTING THE CERTIFICATION.

11 D. IN THE EVENT THAT THE MEMBERSHIP CAMPGROUND CONTRACT IS SIGNED BY  
12 MORE THAN ONE PURCHASER, AND ONE OR MORE PURCHASERS MEET THE REQUIRE-  
13 MENTS TO CANCEL PURSUANT TO THIS SUBDIVISION, EVERY PURCHASER UNDER THE  
14 CONTRACT SHALL HAVE THE RIGHT TO CANCEL THE CONTRACT PROVIDED THE OTHER  
15 PURCHASER OR PURCHASERS SO NOTIFY THE OPERATOR BY SIGNING AND DELIVER-  
16 ING, AT THE SAME TIME, THE SAME CANCELLATION NOTICE REQUIRED BY PARA-  
17 GRAPH C OF THIS SUBDIVISION SIGNED BY THE PURCHASER OR PURCHASERS MEET-  
18 ING THE CANCELLATION REQUIREMENTS, IN WHICH CASE ALL SUCH PURCHASER OR  
19 PURCHASERS WHO SIGN THE CANCELLATION NOTICE SHALL BE RELIEVED OF ANY  
20 FURTHER OBLIGATION UNDER THE CONTRACT EXCEPT FOR THOSE OBLIGATIONS  
21 OUTLINED IN PARAGRAPH B OF THIS SUBDIVISION.

22 S 2. Subdivision 2-a of section 653 of the general business law, as  
23 amended by chapter 489 of the laws of 1990, is amended to read as  
24 follows:

25 2-a. The following statement, in bold letters of at least ten point  
26 type, which advises the purchaser of the right to cancel the contract  
27 under section six hundred fifty-four of this article shall be contained  
28 in the contract:

29 YOU MAY CANCEL THIS MEMBERSHIP CONTRACT WITHOUT ANY PENALTY,  
30 FORFEITURE, OR FURTHER OBLIGATION WITHIN THREE (3) BUSINESS DAYS  
31 FROM THE DATE THAT YOU EXECUTE SAID CONTRACT. FOR ADDITIONAL RIGHT  
32 OF CANCELLATION SEE THE DISCLOSURE DOCUMENT.

33 Immediately following the above right of cancellation notice, the  
34 instructions below shall be given in the same type as the print for the  
35 contract text.

36 "Notice of cancellation shall be in writing subscribed by the purchas-  
37 er OR HIS OR HER LEGALLY DESIGNATED REPRESENTATIVE and hand delivered  
38 or mailed BY CERTIFIED MAIL to the membership campground operator at the  
39 address stated herein and postmarked not later than three business days  
40 from the date of execution of said contract. Such notice shall be accom-  
41 panied by the original or copies of the membership camping contract and  
42 all supporting documentation."

43 S 3. Subdivision 2 of section 653 of the general business law is  
44 amended by adding a new paragraph o to read as follows:

45 O. THE FOLLOWING STATEMENT, IN BOLD LETTERS OF AT LEAST TEN POINT TYPE  
46 WHERE IN CAPITAL LETTERS BELOW, WHICH ADVISES THE PURCHASER OF THE RIGHT  
47 TO CANCEL THE CONTRACT UNDER SECTION SIX HUNDRED FIFTY-FOUR-A OF THIS  
48 ARTICLE, SHALL BE CONTAINED IN THE DISCLOSURE DOCUMENT:

49 ADDITIONAL RIGHT OF CANCELLATION: AFTER THREE (3) BUSINESS DAYS FROM  
50 THE DATE THAT YOU EXECUTE SAID CONTRACT YOU MAY CANCEL FOR ANY OF THE  
51 FOLLOWING REASONS:

52 (1) A MATERIAL BREACH IN THE PROVISION OF THE ESSENTIAL SERVICES AND  
53 PROGRAMS SET FORTH IN THE MEMBERSHIP CAMPING CONTRACT; OR

54 (2) YOU HAVE RELOCATED TO A PERMANENT RESIDENCE NOT LESS THAN FIVE  
55 HUNDRED MILES FROM A CAMPGROUND OR OTHER FACILITY WHERE YOU CAN USE YOUR  
56 MEMBERSHIP; OR

1 (3) YOU, YOUR SPOUSE, OR YOUR DOMESTIC PARTNER CURRENTLY RESIDES IN OR  
2 ARE NOTIFIED OF AND ACCEPT THE OPPORTUNITY TO COMMENCE OCCUPANCY IN AN  
3 ADULT CARE FACILITY OR A RESIDENTIAL HEALTH CARE FACILITY; OR

4 (4) YOU, YOUR SPOUSE, OR YOUR DOMESTIC PARTNER ARE CERTIFIED BY A  
5 PHYSICIAN AS PHYSICALLY UNABLE TO VISIT THE RESORT AND MATERIALLY USE  
6 THE SERVICES AND PROGRAMS AS OUTLINED IN THE CONTRACT; OR

7 (5) YOU ARE THE VICTIM OF DOMESTIC VIOLENCE PERPETRATED BY ANOTHER  
8 SIGNATORY OF THE SAME CONTRACT.

9 IMMEDIATELY FOLLOWING THE ABOVE RIGHT OF CANCELLATION NOTICE, THE  
10 INSTRUCTIONS BELOW SHALL BE GIVEN IN THE SAME TYPE AS THE PRINT FOR THE  
11 CONTRACT TEXT.

12 "NOTICE OF CANCELLATION SHALL BE IN WRITING SUBSCRIBED BY THE PURCHAS-  
13 ER OR HIS OR HER LEGALLY DESIGNATED REPRESENTATIVE AND SENT BY CERTIFIED  
14 MAIL TO THE MEMBERSHIP CAMPGROUND OPERATOR AT THE ADDRESS STATED HEREIN.  
15 SUCH NOTICE SHALL BE ACCOMPANIED BY THE ORIGINAL OR COPIES OF THE  
16 MEMBERSHIP CAMPING CONTRACT AND ALL SUPPORTING DOCUMENTATION. IF YOU ARE  
17 EXERCISING YOUR RIGHT TO CANCEL AFTER THREE BUSINESS DAYS, SUCH NOTIFI-  
18 CATION SHALL ALSO INCLUDE A WRITTEN STATEMENT THAT CERTIFIES THAT THE  
19 REPRESENTATIONS ARE TRUE AND CORRECT, AND CONTAIN NO MATERIAL OMISSIONS  
20 OF FACT TO THE BEST OF YOUR KNOWLEDGE AND BELIEF."

21 S 4. This act shall take effect on the one hundred eightieth day after  
22 it shall have become a law.