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

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                                  3601

                       2013-2014 Regular Sessions

                            I N   A S S E M B L Y

                            January 28, 2013
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   Introduced by M.   of A. MAISEL, MILLER, McDONOUGH, ROBERTS, STEVENSON,
     COLTON, JAFFEE, WEPRIN -- Multi-Sponsored by -- M. of A. CROUCH,
     JACOBS, MARKEY, MONTESANO -- read once and referred to the Committee
     on Consumer Affairs and Protection

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