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

2146--A

2013-2014 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 9, 2013

Introduced by M. of A. SCHIMMINGER, SKOUFIS -- read once and referred to the Committee on Judiciary -- recommitted to the Committee on Judiciary 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 electronic security and life safety alarm services

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

Section 1. The general business law is amended by adding a new section 69-xx to read as follows:

S 69-XX. AUTOMATIC RENEWAL OR CONTINUOUS SERVICE OFFER FOR ELECTRONIC AND LIFE SAFETY ALARM SERVICES CONTRACTS; UNLAWFUL ACTS; MECHANISM FOR CANCELLATION; TERMS; APPLICABILITY OF REQUIREMENTS. 1. IT SHALL BE UNLAWFUL FOR ANY BUSINESS INSTALLING, SERVICING, MONITORING OR MAINTAINING SECURITY OR FIRE ALARM SYSTEMS UNDER THIS ARTICLE FROM MAKING AN AUTOMATIC RENEWAL OR CONTINUOUS SERVICE OFFER TO A CONSUMER FOR ELECTRONIC SECURITY AND LIFE SAFETY SYSTEM ALARM MONITORING IN THIS STATE TO DO ANY OF THE FOLLOWING:

(A) FAIL TO PRESENT THE AUTOMATIC RENEWAL OFFER TERMS OR CONTINUOUS SERVICE OFFER TERMS IN A CLEAR AND CONSPICUOUS MANNER.

(B) CHARGE THE CONSUMER'S CREDIT OR DEBIT CARD OR THE CONSUMER'S ACCOUNT WITH A THIRD PARTY FOR AN AUTOMATIC RENEWAL OR CONTINUOUS SERVICE WITHOUT FIRST OBTAINING THE CONSUMER'S AFFIRMATIVE CONSENT TO THE AGREEMENT CONTAINING THE AUTOMATIC RENEWAL OFFER TERMS OR CONTINUOUS SERVICE OFFER TERMS. ANY FORM OF PAYMENT FOR SERVICES INITIATED BY THE CONSUMER SHALL BE CONSIDERED AFFIRMATIVE CONSENT UNDER THE PROVISIONS OF THIS ARTICLE.

(C) FAIL TO PROVIDE AN ACKNOWLEDGMENT THAT INCLUDES THE AUTOMATIC RENEWAL OR CONTINUOUS SERVICE OFFER TERMS, CANCELLATION POLICY, AND

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

LBD05242-02-4

INFORMATION REGARDING HOW TO CANCEL IN A MANNER THAT IS CAPABLE OF BEING RETAINED BY THE CONSUMER.

2. A BUSINESS MAKING AUTOMATIC RENEWAL OR CONTINUOUS SERVICE OFFERS SHALL PROVIDE A TOLL-FREE TELEPHONE NUMBER, ELECTRONIC MAIL ADDRESS, A POSTAL ADDRESS ONLY WHEN THE SELLER DIRECTLY BILLS THE CONSUMER, OR ANOTHER COST-EFFECTIVE, TIMELY, AND EASY-TO-USE MECHANISM FOR CANCELLATION THAT SHALL BE DESCRIBED IN THE RENEWAL OFFER AS REQUIRED BY THIS SECTION.

3. IN THE CASE OF A MATERIAL CHANGE IN THE TERMS OF THE AUTOMATIC RENEWAL OR CONTINUOUS SERVICE OFFER THAT HAS BEEN ACCEPTED BY A CONSUMER IN THIS STATE, THE BUSINESS SHALL PROVIDE THE CONSUMER WITH A CLEAR AND CONSPICUOUS NOTICE OF THE MATERIAL CHANGE AND PROVIDE INFORMATION REGARDING HOW TO CANCEL IN A MANNER THAT IS CAPABLE OF BEING RETAINED BY THE CONSUMER.

S 2. This act shall take effect on the ninetieth day after it shall have become a law.