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

4231

2015-2016 Regular Sessions

I N S E N A T E

March 11, 2015

Introduced by Sen. RANZENHOFER -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection

AN ACT to amend the general business law, in relation to automatic renewal of contracts for electronic 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 UNENFORCEABLE; MECHANISM FOR CANCELLATION; TERMS; APPLICABILITY OF REQUIREMENTS. 1. AUTOMATIC RENEWAL OF A CONTRACT FOR INSTALLING, SERVICING, MONITORING OR MAINTAINING SECURITY OR FIRE ALARM SYSTEMS UNDER THIS ARTICLE SHALL BE UNENFORCEABLE UNLESS:

(A) THE AUTOMATIC RENEWAL OFFER TERMS OR CONTINUOUS SERVICE OFFER TERMS ARE PRESENTED TO THE CONSUMER IN A CLEAR AND CONSPICUOUS MANNER;

(B) THE BUSINESS OR PERSON FURNISHING THE ELECTRONIC AND LIFE SAFETY ALARM SERVICE OBTAINS THE CONSUMER'S AFFIRMATIVE CONSENT TO THE AGREEMENT CONTAINING THE AUTOMATIC RENEWAL OFFER TERMS OR CONTINUOUS SERVICE OFFER TERMS PRIOR TO CHARGING THE CONSUMER'S CREDIT OR DEBIT CARD OR THE CONSUMER'S ACCOUNT WITH A THIRD PARTY FOR AN AUTOMATIC RENEWAL OR CONTINUOUS SERVICE. ANY FORM OF PAYMENT FOR SERVICES INITIATED BY THE CONSUMER SHALL BE CONSIDERED AFFIRMATIVE CONSENT UNDER THE PROVISIONS OF THIS ARTICLE; AND

(C) SUCH RENEWAL OR CONTINUOUS SERVICE OFFER PROVIDES AN ACKNOWLEDGMENT OF THE CONTRACT CANCELLATION POLICY, AND 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 CANCELLA-

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

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TION 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.