

6496

2015-2016 Regular Sessions

I N A S S E M B L Y

March 25, 2015

Introduced by M. of A. SCHIMMINGER, SKOUFIS -- read once and referred to the Committee on Judiciary

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:

1 Section 1. The general business law is amended by adding a new section
2 69-xx to read as follows:

3 S 69-XX. AUTOMATIC RENEWAL OR CONTINUOUS SERVICE OFFER FOR ELECTRONIC
4 AND LIFE SAFETY ALARM SERVICES CONTRACTS UNENFORCEABLE; MECHANISM FOR
5 CANCELLATION; TERMS; APPLICABILITY OF REQUIREMENTS. 1. AUTOMATIC
6 RENEWAL OF A CONTRACT FOR INSTALLING, SERVICING, MONITORING OR MAINTAIN-
7 ING SECURITY OR FIRE ALARM SYSTEMS UNDER THIS ARTICLE SHALL BE UNEN-
8 FORCEABLE UNLESS:

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

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

19 (C) SUCH RENEWAL OR CONTINUOUS SERVICE OFFER PROVIDES AN ACKNOWLEDG-
20 MENT OF THE CONTRACT CANCELLATION POLICY, AND INFORMATION REGARDING HOW
21 TO CANCEL IN A MANNER THAT IS CAPABLE OF BEING RETAINED BY THE CONSUMER.

22 2. A BUSINESS MAKING AUTOMATIC RENEWAL OR CONTINUOUS SERVICE OFFERS
23 SHALL PROVIDE A TOLL-FREE TELEPHONE NUMBER, ELECTRONIC MAIL ADDRESS, A
24 POSTAL ADDRESS ONLY WHEN THE SELLER DIRECTLY BILLS THE CONSUMER, OR
25 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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1 TION THAT SHALL BE DESCRIBED IN THE RENEWAL OFFER AS REQUIRED BY THIS
2 SECTION.
3 3. IN THE CASE OF A MATERIAL CHANGE IN THE TERMS OF THE AUTOMATIC
4 RENEWAL OR CONTINUOUS SERVICE OFFER THAT HAS BEEN ACCEPTED BY A CONSUMER
5 IN THIS STATE, THE BUSINESS SHALL PROVIDE THE CONSUMER WITH A CLEAR AND
6 CONSPICUOUS NOTICE OF THE MATERIAL CHANGE AND PROVIDE INFORMATION
7 REGARDING HOW TO CANCEL IN A MANNER THAT IS CAPABLE OF BEING RETAINED BY
8 THE CONSUMER.
9 S 2. This act shall take effect on the ninetieth day after it shall
10 have become a law.