

AMENDED IN ASSEMBLY AUGUST 5, 2014

AMENDED IN SENATE MAY 1, 2013

AMENDED IN SENATE APRIL 8, 2013

**SENATE BILL**

**No. 536**

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**Introduced by Senator Berryhill**

February 22, 2013

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An act to add Section ~~53757~~ 7599.56 to the ~~Government Business and Professions Code~~, and to amend Sections 1633.3 and 1689.5 of the ~~Civil Code~~, relating to ~~local government~~ alarm companies.

LEGISLATIVE COUNSEL'S DIGEST

SB 536, as amended, Berryhill. ~~Property-related services. Alarm companies: electronic transactions.~~

Existing law, the Alarm Company Act, provides for the licensure and regulation of alarm company operators and the certification and registration of employees of alarm companies, including alarm agents, by the Bureau for Security and Investigative Services within the Department of Consumer Affairs. That act requires that specified agreements entered into by an alarm company pertaining to alarm systems, including, among others, lease agreements, monitoring agreements, service agreements, and installation agreements, be in writing. Existing law, the Uniform Electronic Transactions Act (UETA), generally allows parties to contract to conduct transactions by electronic means, imposes specified requirements on electronic transactions in order to comply with the act, and provides specified protections for electronic transactions conducted pursuant to the act. UETA does not apply to certain transactions, including, among others, "home solicitation contracts," as defined. Existing law provides specified time

*periods for consumers to cancel a home solicitation contract, and requires specified disclosures and statements, and separately executed cancellation documents in connection with the execution of those contracts.*

*This bill would provide that, notwithstanding certain provisions in UETA excluding home solicitation contracts, contracts for services or other activities authorized by the Alarm Company Act may be conducted by electronic means. The bill would provide that the provisions of UETA would apply to transactions conducted by persons licensed, certified, or registered pursuant to the Alarm Company Act, for purposes authorized by the Alarm Company Act, as specified. The bill would also exclude contracts for services or other activities authorized by the Alarm Company Act from the definition of a home solicitation contract. The bill would require those electronic contracts for services or other activities authorized by the Alarm Company Act to comply with specified cancellation periods, statements, and disclosures that apply to home solicitation contracts, and would authorize signatures and statements required by those provisions to be provided and transmitted electronically.*

~~The California Constitution, with certain exceptions, conditions the imposition or increase of a property-related fee or charge upon less than a majority of owners of subject parcels submitting written protests, and requires the approval by either a majority vote of the owners of the properties subject to the fee or charge or, under certain conditions, by a  $\frac{2}{3}$  vote of the voters residing in the area affected by the fee or charge.~~

~~This bill would specifically provide that a county shall not be obligated to provide subsidies to cure any deficiencies in funding of property-related services provided within the jurisdiction of a district, as defined, under any of certain specified circumstances. This bill would provide that this prohibition would not apply if the county's governing board had agreed to subsidize the district's services before the completion of a majority protest proceeding or election, as specified.~~

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 *SECTION 1. Section 7599.56 is added to the Business and*
- 2 *Professions Code, to read:*

1 7599.56. (a) *Contracts for services or other activities*  
2 *authorized by this chapter may be conducted by electronic means.*  
3 *Notwithstanding subdivisions (b) and (c) of Section 1633.3 of the*  
4 *Civil Code, the Uniform Electronic Transactions Act (Title 2.5*  
5 *(commencing with Section 1633.1) of Part 2 of Division 3 of the*  
6 *Civil Code) applies to electronic records and electronic signatures*  
7 *relating to transactions conducted by a person licensed, certified,*  
8 *or registered pursuant to this chapter, for purposes of activities*  
9 *authorized by this chapter. An electronic contract for services or*  
10 *other activities authorized by this chapter shall not be used without*  
11 *the consent of the contracting consumer.*

12 (b) *Contracts for services or other activities authorized by this*  
13 *chapter shall comply with paragraph (1) of subdivision (a) of, and*  
14 *subdivisions (d) and (e) of, Section 1689.6 of the Civil Code,*  
15 *provided however, that a notice of cancellation described in those*  
16 *provisions may be provided and transmitted electronically.*

17 (c) *Contracts for services or other activities authorized by this*  
18 *chapter shall comply with paragraph (1) of subdivision (a) of, and*  
19 *subdivision (c) of, Section 1689.7 of the Civil Code, provided*  
20 *however, that the signatures and statements described in those*  
21 *provisions may be provided and transmitted electronically.*

22 SEC. 2. *Section 1633.3 of the Civil Code, as amended by*  
23 *Chapter 605 of the Statutes of 2013, is amended to read:*

24 1633.3. (a) Except as otherwise provided in subdivisions (b)  
25 and (c), this title applies to electronic records and electronic  
26 signatures relating to a transaction.

27 (b) This title does not apply to transactions subject to the  
28 following laws:

29 (1) A law governing the creation and execution of wills, codicils,  
30 or testamentary trusts.

31 (2) Division 1 (commencing with Section 1101) of the Uniform  
32 Commercial Code, except Sections 1206 and 1306.

33 (3) Divisions 3 (commencing with Section 3101), 4  
34 (commencing with Section 4101), 5 (commencing with Section  
35 5101), 8 (commencing with Section 8101), 9 (commencing with  
36 Section 9101), and 11 (commencing with Section 11101) of the  
37 Uniform Commercial Code.

38 (4) A law that requires that specifically identifiable text or  
39 disclosures in a record or a portion of a record be separately signed,  
40 including initialed, from the record. However, this paragraph does

1 not apply to Section 1677 or 1678 of this code or Section 1298 of  
2 the Code of Civil Procedure.

3 (c) This title does not apply to any specific transaction described  
4 in Section 17511.5 of the Business and Professions Code, Section  
5 56.11, 56.17, 798.14, 1133, or 1134 of, Section 1689.6, 1689.7,  
6 or 1689.13 of, Chapter 2.5 (commencing with Section 1695) of  
7 Title 5 of Part 2 of Division 3 of, Section 1720, 1785.15, 1789.14,  
8 1789.16, or 1793.23 of, Chapter 1 (commencing with Section  
9 1801) of Title 2 of Part 4 of Division 3 of, Section 1861.24, 1862.5,  
10 1917.712, 1917.713, 1950.5, 1950.6, 1983, 2924b, 2924c, 2924f,  
11 2924i, 2924j, 2924.3, or 2937 of, Article 1.5 (commencing with  
12 Section 2945) of Chapter 2 of Title 14 of Part 4 of Division 3 of,  
13 Section 2954.5 or 2963 of, Chapter 2b (commencing with Section  
14 2981) or 2d (commencing with Section 2985.7) of Title 14 of Part  
15 4 of Division 3 of, Section 3071.5 of, Part 5 (commencing with  
16 Section 4000) of Division 4 of, or Part 5.3 (commencing with  
17 Section 6500) of Division 4 of this code, subdivision (b) of Section  
18 18608 or Section 22328 of the Financial Code, Section 1358.15,  
19 1365, 1368.01, 1368.1, 1371, or 18035.5 of the Health and Safety  
20 Code, Section 662, paragraph (2) of subdivision (a) of Section  
21 663, 664, 667.5, 673, 677, paragraph (2) of subdivision (a) of  
22 Section 678, subdivisions (a) and (b) of Section 678.1, Section  
23 786, 10113.7, 10127.7, 10127.9, 10127.10, 10192.18, 10199.44,  
24 10199.46, 10235.16, 10235.40, 10509.4, 10509.7, 11624.09, or  
25 11624.1 of the Insurance Code, Section 779.1, 10010.1, or 16482  
26 of the Public Utilities Code, or Section 9975 or 11738 of the  
27 Vehicle Code. An electronic record may not be substituted for any  
28 notice that is required to be sent pursuant to Section 1162 of the  
29 Code of Civil Procedure. Nothing in this subdivision shall be  
30 construed to prohibit the recordation of any document with a county  
31 recorder by electronic means.

32 (d) This title applies to an electronic record or electronic  
33 signature otherwise excluded from the application of this title under  
34 subdivision (b) when used for a transaction subject to a law other  
35 than those specified in subdivision (b).

36 (e) A transaction subject to this title is also subject to other  
37 applicable substantive law.

38 (f) The exclusion of a transaction from the application of this  
39 title under subdivision (b) or (c) shall be construed only to exclude  
40 the transaction from the application of this title, but shall not be

1 construed to prohibit the transaction from being conducted by  
2 electronic means if the transaction may be conducted by electronic  
3 means under any other applicable law.

4 *(g) Notwithstanding subdivisions (b) and (c), this title shall*  
5 *apply to electronic records and electronic signatures relating to*  
6 *transactions conducted by a person licensed, certified, or registered*  
7 *pursuant to the Alarm Company Act (Chapter 11.6 (commencing*  
8 *with Section 7590) of Division 3 of the Business and Professions*  
9 *Code) for purposes of activities authorized by that act.*

10 ~~(g)~~

11 *(h) This section shall remain in effect only until January 1, 2019,*  
12 *and as of that date is repealed, unless a later enacted statute, that*  
13 *is enacted before January 1, 2019, deletes or extends that date.*

14 *SEC. 3. Section 1633.3 of the Civil Code, as added by Section*  
15 *3 of Chapter 369 of the Statutes of 2013, is amended to read:*

16 1633.3. (a) Except as otherwise provided in subdivisions (b)  
17 and (c), this title applies to electronic records and electronic  
18 signatures relating to a transaction.

19 (b) This title does not apply to transactions subject to the  
20 following laws:

21 (1) A law governing the creation and execution of wills, codicils,  
22 or testamentary trusts.

23 (2) Division 1 (commencing with Section 1101) of the Uniform  
24 Commercial Code, except Sections 1206 and 1306.

25 (3) Divisions 3 (commencing with Section 3101), 4  
26 (commencing with Section 4101), 5 (commencing with Section  
27 5101), 8 (commencing with Section 8101), 9 (commencing with  
28 Section 9101), and 11 (commencing with Section 11101) of the  
29 Uniform Commercial Code.

30 (4) A law that requires that specifically identifiable text or  
31 disclosures in a record or a portion of a record be separately signed,  
32 including initialed, from the record. However, this paragraph does  
33 not apply to Section 1677 or 1678 of this code or Section 1298 of  
34 the Code of Civil Procedure.

35 (c) This title does not apply to any specific transaction described  
36 in Section 17511.5 of the Business and Professions Code, Section  
37 56.11, 56.17, 798.14, 1133, or 1134 of, Section 1689.6, 1689.7,  
38 or 1689.13 of, Chapter 2.5 (commencing with Section 1695) of  
39 Title 5 of Part 2 of Division 3 of, Section 1720, 1785.15, 1789.14,  
40 1789.16, or 1793.23 of, Chapter 1 (commencing with Section

1 1801) of Title 2 of Part 4 of Division 3 of, Section 1861.24, 1862.5,  
2 1917.712, 1917.713, 1950.5, 1950.6, 1983, 2924b, 2924c, 2924f,  
3 2924i, 2924j, 2924.3, or 2937 of, Article 1.5 (commencing with  
4 Section 2945) of Chapter 2 of Title 14 of Part 4 of Division 3 of,  
5 Section 2954.5 or 2963 of, Chapter 2b (commencing with Section  
6 2981) or 2d (commencing with Section 2985.7) of Title 14 of Part  
7 4 of Division 3 of, Section 3071.5 of Part 5 (commencing with  
8 Section 4000) of Division 4 of, or Part 5.3 (commencing with  
9 Section 6500) of Division 4 of this code, subdivision (b) of Section  
10 18608 or Section 22328 of the Financial Code, Section 1358.15,  
11 1365, 1368.01, 1368.1, 1371, or 18035.5 of the Health and Safety  
12 Code, Section 662, 663, 664, 667.5, 673, 677, 678, 678.1, 786,  
13 10086, 10113.7, 10127.7, 10127.9, 10127.10, 10192.18, 10199.44,  
14 10199.46, 10235.16, 10235.40, 10509.4, 10509.7, 11624.09, or  
15 11624.1 of the Insurance Code, Section 779.1, 10010.1, or 16482  
16 of the Public Utilities Code, or Section 9975 or 11738 of the  
17 Vehicle Code. An electronic record may not be substituted for any  
18 notice that is required to be sent pursuant to Section 1162 of the  
19 Code of Civil Procedure. Nothing in this subdivision shall be  
20 construed to prohibit the recordation of any document with a county  
21 recorder by electronic means.

22 (d) This title applies to an electronic record or electronic  
23 signature otherwise excluded from the application of this title under  
24 subdivision (b) when used for a transaction subject to a law other  
25 than those specified in subdivision (b).

26 (e) A transaction subject to this title is also subject to other  
27 applicable substantive law.

28 (f) The exclusion of a transaction from the application of this  
29 title under subdivision (b) or (c) shall be construed only to exclude  
30 the transaction from the application of this title, but shall not be  
31 construed to prohibit the transaction from being conducted by  
32 electronic means if the transaction may be conducted by electronic  
33 means under any other applicable law.

34 (g) *Notwithstanding subdivisions (b) and (c), this title shall*  
35 *apply to electronic records and electronic signatures relating to*  
36 *transactions conducted by a person licensed, certified, or registered*  
37 *pursuant to the Alarm Company Act (Chapter 11.6 (commencing*  
38 *with Section 7590) of Division 3 of the Business and Professions*  
39 *Code) for purposes of activities authorized by that act.*

40 (~~g~~)

1 (h) This section shall become operative on January 1, 2019.

2 SEC. 4. Section 1689.5 of the Civil Code is amended to read:

3 1689.5. As used in Sections 1689.6 to 1689.11, inclusive, and  
4 in Section 1689.14:

5 (a) “Home solicitation contract or offer” means any contract,  
6 whether single or multiple, or any offer which is subject to  
7 approval, for the sale, lease, or rental of goods or services or both,  
8 made at other than appropriate trade premises in an amount of  
9 twenty-five dollars (\$25) or more, including any interest or service  
10 charges. “Home solicitation contract” does not include any contract  
11 under which the buyer has the right to rescind pursuant to Title 1,  
12 Chapter 2, Section 125 of the Federal Consumer Credit Protection  
13 Act ~~(P.L. (Public Law 90-321)~~ and the regulations promulgated  
14 pursuant thereto. “Home solicitation contract” does not include  
15 a contract for goods or services conducted by a person licensed,  
16 certified, or registered pursuant to the Alarm Company Act  
17 (Chapter 11.6 (commencing with Section 7590) of Division 3 of  
18 the Business and Professions Code) for purposes of activities  
19 authorized by that act.

20 (b) “Appropriate trade premises,” means premises where either  
21 the owner or seller normally carries on a business, or where goods  
22 are normally offered or exposed for sale in the course of a business  
23 carried on at those premises.

24 (c) “Goods” means tangible chattels bought for use primarily  
25 for personal, family, or household purposes, including certificates  
26 or coupons exchangeable for these goods, and including goods  
27 that, at the time of the sale or subsequently, are to be so affixed to  
28 real property as to become a part of the real property whether or  
29 not severable therefrom, but does not include any vehicle required  
30 to be registered under the Vehicle Code, nor any goods sold with  
31 this vehicle if sold under a contract governed by Section 2982, and  
32 does not include any mobilehome, as defined in Section 18008 of  
33 the Health and Safety Code, nor any goods sold with this  
34 mobilehome if either are sold under a contract subject to Section  
35 18036.5 of the Health and Safety Code.

36 (d) “Services” means work, labor and services, including, but  
37 not limited to, services furnished in connection with the repair,  
38 restoration, alteration, or improvement of residential premises, or  
39 services furnished in connection with the sale or repair of goods  
40 as defined in Section 1802.1, and courses of instruction, regardless

1 of the purpose for which they are taken, but does not include the  
 2 services of attorneys, real estate brokers and salesmen, securities  
 3 dealers or investment counselors, physicians, optometrists, or  
 4 dentists, nor financial services offered by banks, savings  
 5 institutions, credit unions, industrial loan companies, personal  
 6 property brokers, consumer finance lenders, or commercial finance  
 7 lenders, organized pursuant to state or federal law, that are not  
 8 connected with the sale of goods or services, as defined herein,  
 9 nor the sale of insurance that is not connected with the sale of  
 10 goods or services as defined herein, nor services in connection  
 11 with the sale or installation of mobilehomes or of goods sold with  
 12 a mobilehome if either are sold or installed under a contract subject  
 13 to Section 18036.5 of the Health and Safety Code, nor services for  
 14 which the tariffs, rates, charges, costs, or expenses, including in  
 15 each instance the time sale price, is required by law to be filed  
 16 with and approved by the federal government or any official,  
 17 department, division, commission, or agency of the United States  
 18 or of the state.

19 (e) “Business day” means any calendar day except Sunday, or  
 20 the following business holidays: New Year’s Day, Washington’s  
 21 Birthday, Memorial Day, Independence Day, Labor Day, Columbus  
 22 Day, Veterans’ Day, Thanksgiving Day, and Christmas Day.

23 (f) This section shall become operative on January 1, 2006.

24 ~~SECTION 1. Section 53757 is added to the Government Code,~~  
 25 ~~to read:~~

26 ~~53757. (a) A county shall not be obligated to provide subsidies~~  
 27 ~~to cure any deficiencies in the funding of property-related services~~  
 28 ~~provided within a district’s jurisdiction, if any of the following~~  
 29 ~~conditions exist:~~

30 ~~(1) The district’s governing board proposed to impose, extend,~~  
 31 ~~or increase property-related fees or charges for the services, the~~  
 32 ~~board fully complied with Section 6 of Article XIII D of the~~  
 33 ~~California Constitution, and a majority of parcel owners submitted~~  
 34 ~~a written protest against the proposed imposition, extension, or~~  
 35 ~~increase, pursuant to subdivision (a) of Section 6 of Article XIII D~~  
 36 ~~of the California Constitution.~~

37 ~~(2) The district’s governing board proposed to impose, extend,~~  
 38 ~~or increase property-related fees or charges for the services, the~~  
 39 ~~board fully complied with Section 6 of Article XIII D of the~~  
 40 ~~California Constitution, and the proposed imposition, extension,~~

1 or increase failed to get voter approval pursuant to subdivision (c)  
2 of Section 6 of Article XIII D of the California Constitution.

3 ~~(3) Property-related fees or charges for the services that fully~~  
4 ~~complied with Section 6 of XIII D of the California Constitution~~  
5 ~~were reduced or repealed by the voters by an initiative pursuant~~  
6 ~~to Section 3 of Article XIII C of the California Constitution.~~

7 ~~(b) Subdivision (a) shall not apply if the county's governing~~  
8 ~~board had undertaken the obligation to subsidize the services before~~  
9 ~~the completion of a majority protest proceeding or election~~  
10 ~~described in paragraph (1), (2), or (3) of subdivision (a).~~

11 ~~(c) For purposes of this section, "fully complied with Section~~  
12 ~~6 of Article XIII D of the California Constitution" means all of the~~  
13 ~~following:~~

14 ~~(1) Revenues derived from the proposed fee or charge do not~~  
15 ~~exceed the funds required to provide the property-related service.~~

16 ~~(2) Revenues derived from the fee or charge are not used for~~  
17 ~~any purpose other than that for which the fee or charge was~~  
18 ~~imposed.~~

19 ~~(3) The amount of the fee or charge imposed on any parcel or~~  
20 ~~person as an incident of property ownership does not exceed the~~  
21 ~~proportional cost of the service attributable to the parcel or person.~~

22 ~~(4) The fee or charge is not imposed for a service unless and~~  
23 ~~until that service is actually used by, or immediately available to,~~  
24 ~~the property owner in question.~~

25 ~~(5) The fee or charge is not imposed for general government~~  
26 ~~services if the service is available to the public at large in~~  
27 ~~substantially the same manner it is to property owners.~~

28 ~~(6) The district has identified all parcels upon which the fee or~~  
29 ~~charge is proposed and calculated the amount of the fee or charge~~  
30 ~~to be imposed upon each identified parcel.~~

31 ~~(7) The district has provided a written notice by mail of the~~  
32 ~~proposed fee or charge to the record owner of each identified~~  
33 ~~parcel, in conformance with subdivision (c) of Section 6 of~~  
34 ~~Article XIII D of the California Constitution, and provided for all~~  
35 ~~required hearings.~~

36 ~~(d) For purposes of this section, "district" shall mean a local~~  
37 ~~governmental entity created for the purpose of providing sidewalks,~~  
38 ~~streets, sewers, water, flood control, drainage systems, or vector~~  
39 ~~control services within its jurisdiction with a governing board that~~

- 1 ~~has the same members as the board of supervisors for the county~~
- 2 ~~in the overlapping geographical area.~~

O