

ASSEMBLY BILL

No. 1097

Introduced by Assembly Member Holden

February 27, 2015

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1097, as introduced, Holden. Alarm companies: electronic transactions.

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 of 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. 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, disclosures, and documents required by those provisions to be provided and transmitted electronically.

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:
 3 7599.56. (a) Contracts for services or other activities
 4 authorized by this chapter may be conducted by electronic means.
 5 Notwithstanding subdivisions (b) and (c) of Section 1633.3 of the
 6 Civil Code, the Uniform Electronic Transactions Act (Title 2.5
 7 (commencing with Section 1633.1) of Part 2 of Division 3 of the
 8 Civil Code) applies to electronic records and electronic signatures
 9 relating to transactions conducted by a person licensed, certified,
 10 or registered pursuant to this chapter, for purposes of activities
 11 authorized by this chapter. An electronic contract for services or
 12 other activities authorized by this chapter shall not be used without
 13 the consent of the contracting consumer.
 14 (b) Contracts for services or other activities authorized by this
 15 chapter shall comply with paragraph (1) of subdivision (a) of, and
 16 subdivisions (d) and (e) of, Section 1689.6 of the Civil Code,
 17 provided however, that a notice of cancellation and copies of the
 18 contract or offer described in those provisions may be provided
 19 and transmitted electronically.

1 (c) Contracts for services or other activities authorized by this
2 chapter shall comply with paragraph (1) of subdivision (a) of, and
3 subdivision (c) of, Section 1689.7 of the Civil Code, provided
4 however, that the signatures, disclosures, and documents described
5 in those provisions may be provided and transmitted electronically.

6 SEC. 2. Section 1633.3 of the Civil Code, as amended by
7 Section 3 of Chapter 913 of the Statutes of 2014, is amended to
8 read:

9 1633.3. (a) Except as otherwise provided in subdivisions (b)
10 and (c), this title applies to electronic records and electronic
11 signatures relating to a transaction.

12 (b) This title does not apply to transactions subject to the
13 following laws:

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

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

18 (3) Divisions 3 (commencing with Section 3101), 4
19 (commencing with Section 4101), 5 (commencing with Section
20 5101), 8 (commencing with Section 8101), 9 (commencing with
21 Section 9101), and 11 (commencing with Section 11101) of the
22 Uniform Commercial Code.

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

28 (c) This title does not apply to any specific transaction described
29 in Section 17511.5 of the Business and Professions Code, Section
30 56.11, 56.17, 798.14, 1133, or 1134 of, Section 1689.6, 1689.7,
31 or 1689.13 of, Chapter 2.5 (commencing with Section 1695) of
32 Title 5 of Part 2 of Division 3 of, Section 1720, 1785.15, 1789.14,
33 1789.16, or 1793.23 of, Chapter 1 (commencing with Section
34 1801) of Title 2 of Part 4 of Division 3 of, Section 1861.24, 1862.5,
35 1917.712, 1917.713, 1950.6, 1983, 2924b, 2924c, 2924f, 2924i,
36 2924j, 2924.3, or 2937 of, Article 1.5 (commencing with Section
37 2945) of Chapter 2 of Title 14 of Part 4 of Division 3 of, Section
38 2954.5 or 2963 of, Chapter 2b (commencing with Section 2981)
39 or 2d (commencing with Section 2985.7) of Title 14 of Part 4 of
40 Division 3 of, Section 3071.5 of, Part 5 (commencing with Section

1 4000) of Division 4 of, or Part 5.3 (commencing with Section
2 6500) of Division 4 of this code, subdivision (b) of Section 18608
3 or Section 22328 of the Financial Code, Section 1358.15, 1365,
4 1368.01, 1368.1, 1371, or 18035.5 of the Health and Safety Code,
5 Section 662, paragraph (2) of subdivision (a) of Section 663, 664,
6 667.5, 673, 677, paragraph (2) of subdivision (a) of Section 678,
7 subdivisions (a) and (b) of Section 678.1, Section 786, 10113.7,
8 10127.7, 10127.9, 10127.10, 10192.18, 10199.44, 10199.46,
9 10235.16, 10235.40, 10509.4, 10509.7, 11624.09, or 11624.1 of
10 the Insurance Code, Section 779.1, 10010.1, or 16482 of the Public
11 Utilities Code, or Section 9975 or 11738 of the Vehicle Code. An
12 electronic record may not be substituted for any notice that is
13 required to be sent pursuant to Section 1162 of the Code of Civil
14 Procedure. Nothing in this subdivision shall be construed to
15 prohibit the recordation of any document with a county recorder
16 by electronic means.

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

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

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

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

35 ~~(g)~~

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

1 SEC. 3. Section 1633.3 of the Civil Code, as amended by
2 Section 4 of Chapter 913 of the Statutes of 2014, is amended to
3 read:

4 1633.3. (a) Except as otherwise provided in subdivisions (b)
5 and (c), this title applies to electronic records and electronic
6 signatures relating to a transaction.

7 (b) This title does not apply to transactions subject to the
8 following laws:

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

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

13 (3) Divisions 3 (commencing with Section 3101), 4
14 (commencing with Section 4101), 5 (commencing with Section
15 5101), 8 (commencing with Section 8101), 9 (commencing with
16 Section 9101), and 11 (commencing with Section 11101) of the
17 Uniform Commercial Code.

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

23 (c) This title does not apply to any specific transaction described
24 in Section 17511.5 of the Business and Professions Code, Section
25 56.11, 56.17, 798.14, 1133, or 1134 of, Section 1689.6, 1689.7,
26 or 1689.13 of, Chapter 2.5 (commencing with Section 1695) of
27 Title 5 of Part 2 of Division 3 of, Section 1720, 1785.15, 1789.14,
28 1789.16, or 1793.23 of, Chapter 1 (commencing with Section
29 1801) of Title 2 of Part 4 of Division 3 of, Section 1861.24, 1862.5,
30 1917.712, 1917.713, 1950.6, 1983, 2924b, 2924c, 2924f, 2924i,
31 2924j, 2924.3, or 2937 of, Article 1.5 (commencing with Section
32 2945) of Chapter 2 of Title 14 of Part 4 of Division 3 of, Section
33 2954.5 or 2963 of, Chapter 2b (commencing with Section 2981)
34 or 2d (commencing with Section 2985.7) of Title 14 of Part 4 of
35 Division 3 of, Section 3071.5 of Part 5 (commencing with Section
36 4000) of Division 4 of, or Part 5.3 (commencing with Section
37 6500) of Division 4 of this code, subdivision (b) of Section 18608
38 or Section 22328 of the Financial Code, Section 1358.15, 1365,
39 1368.01, 1368.1, 1371, or 18035.5 of the Health and Safety Code,
40 Section 662, 663, 664, 667.5, 673, 677, 678, 678.1, 786, 10086,

1 10113.7, 10127.7, 10127.9, 10127.10, 10192.18, 10199.44,
 2 10199.46, 10235.16, 10235.40, 10509.4, 10509.7, 11624.09, or
 3 11624.1 of the Insurance Code, Section 779.1, 10010.1, or 16482
 4 of the Public Utilities Code, or Section 9975 or 11738 of the
 5 Vehicle Code. An electronic record may not be substituted for any
 6 notice that is required to be sent pursuant to Section 1162 of the
 7 Code of Civil Procedure. Nothing in this subdivision shall be
 8 construed to prohibit the recordation of any document with a county
 9 recorder by electronic means.

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

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

16 (f) The exclusion of a transaction from the application of this
 17 title under subdivision (b) or (c) shall be construed only to exclude
 18 the transaction from the application of this title, but shall not be
 19 construed to prohibit the transaction from being conducted by
 20 electronic means if the transaction may be conducted by electronic
 21 means under any other applicable law.

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

28 ~~(g)~~

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

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

31 1689.5. As used in Sections 1689.6 to 1689.11, inclusive, and
 32 in Section 1689.14:

33 (a) “Home solicitation contract or offer” means any contract,
 34 whether single or multiple, or any offer which is subject to
 35 approval, for the sale, lease, or rental of goods or services or both,
 36 made at other than appropriate trade premises in an amount of
 37 twenty-five dollars (\$25) or more, including any interest or service
 38 charges. “Home solicitation contract” does not include any contract
 39 under which the buyer has the right to rescind pursuant to Title 1,
 40 Chapter 2, Section 125 of the ~~Federal~~ *federal* Consumer Credit

1 Protection Act—~~P.L.~~ (*Public Law 90-321*) and the regulations
2 promulgated pursuant thereto. *“Home solicitation contract” does*
3 *not include a contract for goods or services conducted by a person*
4 *licensed, certified, or registered pursuant to the Alarm Company*
5 *Act (Chapter 11.6 (commencing with Section 7590) of Division 3*
6 *of the Business and Professions Code) for purposes of activities*
7 *authorized by that act.*

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

12 (c) “Goods” means tangible chattels bought for use primarily
13 for personal, family, or household purposes, including certificates
14 or coupons exchangeable for these goods, and including goods
15 that, at the time of the sale or subsequently, are to be so affixed to
16 real property as to become a part of the real property whether or
17 not severable therefrom, but does not include any vehicle required
18 to be registered under the Vehicle Code, nor any goods sold with
19 this vehicle if sold under a contract governed by Section 2982, and
20 does not include any mobilehome, as defined in Section 18008 of
21 the Health and Safety Code, nor any goods sold with this
22 mobilehome if either are sold under a contract subject to Section
23 18036.5 of the Health and Safety Code.

24 (d) “Services” means work, labor and services, including, but
25 not limited to, services furnished in connection with the repair,
26 restoration, alteration, or improvement of residential premises, or
27 services furnished in connection with the sale or repair of goods
28 as defined in Section 1802.1, and courses of instruction, regardless
29 of the purpose for which they are taken, but does not include the
30 services of attorneys, real estate brokers and salesmen, securities
31 dealers or investment counselors, physicians, optometrists, or
32 dentists, nor financial services offered by banks, savings
33 institutions, credit unions, industrial loan companies, personal
34 property brokers, consumer finance lenders, or commercial finance
35 lenders, organized pursuant to state or federal law, that are not
36 connected with the sale of goods or services, as defined herein,
37 nor the sale of insurance that is not connected with the sale of
38 goods or services as defined herein, nor services in connection
39 with the sale or installation of mobilehomes or of goods sold with
40 a mobilehome if either are sold or installed under a contract subject

1 to Section 18036.5 of the Health and Safety Code, nor services for
2 which the tariffs, rates, charges, costs, or expenses, including in
3 each instance the time sale price, is required by law to be filed
4 with and approved by the federal government or any official,
5 department, division, commission, or agency of the United States
6 or of the state.

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

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