

Assembly Bill No. 2134

Passed the Assembly August 20, 1998

Chief Clerk of the Assembly

Passed the Senate August 6, 1998

Secretary of the Senate

This bill was received by the Governor this ____ day
of _____, 1998, at ____ o'clock __M.

Private Secretary of the Governor



CHAPTER ____

An act to amend Section 395 of the Code of Civil Procedure, and to add Section 2894.10 to the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 2134, Escutia. Telecommunications: telephone service and telephonic solicitation.

(1) Existing law provides that the proper county for trial of a lawsuit based on an action arising from a transaction consummated as a proximate result of an unsolicited telephone call made by a seller engaged in the business of consummating transactions of that kind is the county in which the buyer or lessee in fact signed the contract, the county in which the buyer or lessee resided at the time the contract was entered into, or the county in which the buyer or lessee resides at the commencement of the action.

This bill would provide the same venue when the lawsuit is based on an action arising from a transaction consummated as a proximate result of a telephone call or electronic transmission made by the buyer or lessee in response to a solicitation by the seller.

(2) Existing law prohibits a telephone corporation from making specified information available regarding a residential customer without first obtaining that customer's consent in writing.

This bill would require telephone corporations to provide their residential customers on an annual basis one or more specified items of information that would provide the customers with information regarding state and federal laws that protect the privacy rights of telephone customers with respect to telephone solicitations.



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

SECTION 1. Section 395 of the Code of Civil Procedure is amended to read:

395. (a) Except as otherwise provided by law and subject to the power of the court to transfer actions or proceedings as provided in this title, the county in which the defendants or some of them reside at the commencement of the action is the proper county for the trial of the action. If the action is for injury to person or personal property or for death from wrongful act or negligence, either the county where the injury occurs or the injury causing death occurs or the county in which the defendants, or some of them reside at the commencement of the action, shall be a proper county for the trial of the action. In a proceeding for dissolution of marriage, the county in which either the petitioner or respondent has been a resident for three months next preceding the commencement of the proceeding is the proper county for the trial of the proceeding. In a proceeding for nullity of marriage or legal separation of the parties, the county in which either the petitioner or the respondent resides at the commencement of the proceeding is the proper county for the trial of the proceeding. In a proceeding to enforce an obligation of support under Section 3900 of the Family Code, the county in which the child resides is the proper county for the trial of the action. In a proceeding to establish and enforce a foreign judgment or court order for the support of a minor child, the county in which the child resides is the proper county for the trial of the action. Subject to subdivision (b), when a defendant has contracted to perform an obligation in a particular county, either the county where the obligation is to be performed or in which the contract in fact was entered into or the county in which the defendant or any such defendant resides at the commencement of the action shall be a proper county for the trial of an action founded on that obligation, and the county in which the obligation is incurred shall be deemed to be the county in which it is to be performed



unless there is a special contract in writing to the contrary. If none of the defendants reside in the state or if residing in the state and the county in which they reside is unknown to the plaintiff, the action may be tried in any county which the plaintiff may designate in his or her complaint, and, if the defendant is about to depart from the state, the action may be tried in any county where either of the parties reside or service is made. If any person is improperly joined as a defendant or has been made a defendant solely for the purpose of having the action tried in the county or judicial district where he or she resides, his or her residence shall not be considered in determining the proper place for the trial of the action.

(b) Subject to the power of the court to transfer actions or proceedings as provided in this title, in an action arising from an offer or provision of goods, services, loans or extensions of credit intended primarily for personal, family or household use, other than an obligation described in Section 1812.10 or Section 2984.4 of the Civil Code, or an action arising from a transaction consummated as a proximate result of either an unsolicited telephone call made by a seller engaged in the business of consummating transactions of that kind or a telephone call or electronic transmission made by the buyer or lessee in response to a solicitation by the seller, the county in which the buyer or lessee in fact signed the contract, the county in which the buyer or lessee resided at the time the contract was entered into, or the county in which the buyer or lessee resides at the commencement of the action, is the proper county for the trial thereof.

(c) If within the county there is a municipal or justice court having jurisdiction of the subject matter established, in the cases mentioned in subdivision (a), in the judicial district in which the defendant or any defendant resides, in which the injury to person or personal property or the injury causing death occurs, or, in which the obligation was contracted to be performed or, in cases mentioned in subdivision (b), in the judicial district which the buyer or lessee resides, in which the



buyer or lessee in fact signed the contract, in which the buyer or lessee resided at the time the contract was entered into, or in which the buyer or lessee resides at the commencement of the action, then that court is the proper court for the trial of the action. Otherwise, any municipal or justice court in the county having jurisdiction of the subject matter is a proper court for the trial thereof.

(d) Any provision of an obligation described in subdivision (b) or (c) waiving those subdivisions is void and unenforceable.

SEC. 2. Section 2894.10 is added to the Public Utilities Code, to read:

2894.10. (a) The Legislature finds and declares that a number of federal and state laws have been enacted to protect residential telephone subscribers' privacy rights with respect to telephone solicitations. Various governmental agencies publish information that generally describes telephone subscribers' rights under these laws. Examples of publications include the Federal Trade Commission's brochure, "Straight Talk About Telemarketing," and the Federal Communications Commission's publication, "Consumer News, What You Can Do About Unsolicited Telephone Marketing Calls and Faxes." The Legislature intends that telephone subscribers be provided with information regarding their privacy rights, under state and federal law, with respect to telephone solicitations.

(b) Every local exchange telephone corporation shall provide its residential customers with information regarding state and federal laws that protect the privacy rights of residential telephone subscribers with respect to telephone solicitations by providing on an annual basis one or more of the following items of information in the billing statement of each residential customer and in conspicuous notices in the consumer information pages of the local telephone directories distributed by that telephone corporation:

(1) A copy of a publication prepared by the Department of Consumer Affairs, the Public Utilities



Commission, the Federal Trade Commission, or any other federal or state governmental agency that generally describes telephone subscribers' privacy rights, under state and federal laws, with respect to telephone solicitations.

(2) A list of the titles of the publications identified in paragraph (1) and information on how to obtain those publications.

(c) A provider of local exchange service shall not be subject to any penalties if the provider makes a good faith effort to provide or identify the publications described in subdivision (b).



Approved _____, 1998

Governor

