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SB-981 Home solicitation contract or offer: water treatment devices: rescission. (2017-2018)

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Senate Bill No. 981

CHAPTER 932

An act to amend Section 17577.3 of the Business and Professions Code, relating to business.

[Approved by Governor September 29, 2018. Filed with Secretary of State September 29, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

SB 981, Dodd. Home solicitation contract or offer: water treatment devices: rescission.

Existing law authorizes a buyer to rescind a home solicitation contract or offer, as defined, within a limited period of time if specified requirements are met. Under existing law, a contract or offer, subject to approval, for the sale, lease, or rental of a water treatment device is deemed a home solicitation contract or offer. Existing law prohibits a water treatment device or any other materials that are the subject of a home solicitation contract or offer from being delivered or installed, or other services performed, until the expiration of the rescission period, as provided. Existing law makes a violation of these provisions a crime.

Existing law prescribes additional requirements on a home improvement contract if obtaining a loan is a condition precedent to the contract or if the contractor provides financing or assists the buyer in obtaining a loan. Existing law renders the home improvement contract unenforceable if the additional requirements are not met, including, among others, if the buyer rescinds the loan or financing transaction within the 3-day period prescribed for rescission pursuant to the federal Truth in Lending Act. Under existing law, a contractor is prohibited from delivering any property or performing any services in relation to the home improvement project until the additional requirements are met.

This bill would authorize the delivery and installation of a water treatment device or any other materials during the home solicitation contract rescission period, subject to the above-described additional rescission requirements for a home improvement contract. The bill would make the seller responsible for all costs in removing the installed water treatment device or other materials, and would require that removal to occur within 20 days if the buyer rescinds the contract before the expiration of the rescission period. The bill would also require the seller to restore the property to substantially as good condition as it was at the time the services were rendered if the seller's services result in the alteration of property of the buyer. Because a violation of the bill's requirements would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 17577.3 of the Business and Professions Code is amended to read:

17577.3. (a) A contract or offer which is subject to approval, for the sale, lease, or rental of a water treatment device shall be deemed a home solicitation contract or offer, as defined in subdivision (a) of Section 1689.5 of the Civil Code regardless of where the contract or offer was made, and shall be subject to the provisions of Sections 1689.5 to 1689.13, inclusive, of the Civil Code if the contract or offer arises out of a scheduled presentation to promote the sale, lease, or rental of a water treatment device to a person invited to attend the presentation at a location other than a private residence.

(b) A water treatment device or any other materials that are the subject of a contract offer described in subdivision (a) may be delivered and installed during the rescission period provided in Sections 1689.5 to 1689.13, inclusive, of the Civil Code. Notwithstanding any other law, if a buyer exercises his or her right to rescind the contract in accordance with those rescission provisions, the seller shall be responsible for all costs in removing the installed water treatment device or any other materials and shall remove that device or any other materials within 20 days of the rescission. If the seller's services result in the alteration of property of the buyer, the seller shall restore the property to substantially as good condition as it was at the time the services were rendered.

(c) A water treatment device or any other materials that are the subject of a contract offer described in subdivision (a) shall be delivered and installed in accordance with Section 7163 and the federal Truth in Lending Act (15 U.S.C. Sec. 1601 et seq.), as applicable.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.