

AMENDED IN SENATE JUNE 24, 1998
AMENDED IN ASSEMBLY APRIL 30, 1998

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 2301

Introduced by Assembly Member Wright

February 19, 1998

An act to add Sections 7159.1 and 7159.2 to the Business and Professions Code, and to add Section 1799.104 to the Civil Professions Code, relating to contracts.

LEGISLATIVE COUNSEL'S DIGEST

AB 2301, as amended, R. Wright. Contracts.

Existing law generally regulates defined home improvement contracts and defined consumer credit contracts.

This bill would require any contract for the sale of home improvement goods or services offered by door-to-door sale that is secured by a lien on real property to include a prescribed notice regarding the use of a home as security. It would provide that a security interest created in any contract or agreement, except as specified that does not include the notice is void and unenforceable, except as specified.

This bill would prohibit a contract or offer for the sale of a satellite dish or antenna or security system from providing for a security interest on real property, except as specified.

~~This bill would provide that every seller and creditor, as defined under federal regulations regarding consumer~~

~~transactions, shall comply with those federal regulations. This bill would provide a consumer damaged by a violation of those regulations with a cause of action for damages and equitable relief.~~

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 7159.1 is added to the Business
2 and Professions Code, to read:

3 7159.1. In any contract for the sale of home
4 improvement goods or services offered by door-to-door
5 sale that contains or is secured by a lien on real property,
6 the contract shall be accompanied by the following notice
7 in 18-point boldfaced type:

8 “WARNING TO BUYER: IF YOU SIGN THE
9 CONTRACT WHICH ACCOMPANIES THIS NOTICE,
10 YOU WILL BE PUTTING UP YOUR HOME AS
11 SECURITY. THIS MEANS THAT YOUR HOME
12 COULD BE SOLD WITHOUT YOUR PERMISSION
13 AND WITHOUT ANY COURT ACTION IF YOU MISS
14 ANY PAYMENT REQUIRED BY THIS CONTRACT.”

15 This notice shall be written in the same language as the
16 rest of the contract. It shall be on a separate piece of paper
17 from the rest of the contract and shall be signed and dated
18 by the buyer. *The home improvement contractor or*
19 *home improvement salesperson shall deliver to the buyer*
20 *at the time of the buyer’s signing and dating of the notice*
21 *a legible copy of the signed and dated notice. A security*
22 *interest created in any contract described in this section*
23 *that does not provide the notice as required by this*
24 *section shall be void and unenforceable. This section shall*
25 *not apply to a mechanic’s lien or any other interest in*
26 *property that arises by operation of law. unenforceable.*

27 *This section shall not apply to any of the following:*

28 (a) *Any contract that is subject to Chapter 1*
29 *(commencing with Section 1801) of Title 2 of Part 4 of*
30 *Division 3 of the Civil Code.*



1 (b) A mechanic's lien established pursuant to Chapter
2 2 (commencing with Section 3109) of Title 15 of Part 4 of
3 Division 3 of the Civil Code.

4 SEC. 2. Section 7159.2 is added to the Business and
5 Professions Code, to read:

6 7159.2. No contract or offer for the sale of a satellite
7 dish antenna or security system shall provide for a
8 security interest on real property, except for a mechanic's
9 lien or other interest in property that arises by operation
10 of law. Any lien taken in violation of this subdivision is
11 void and unenforceable.

12 ~~SEC. 3. Section 1799.104 is added to the Civil Code, to~~
13 ~~read:~~

14 ~~1799.104. (a) Every seller and creditor shall comply~~
15 ~~with, and be subject to, the provisions of Part 433 of Title~~
16 ~~16 of the Code of Federal Regulations.~~

17 ~~(b) Any consumer damaged by a violation of this~~
18 ~~section shall be entitled to bring an action for damages~~
19 ~~and equitable relief and, upon prevailing in the action,~~
20 ~~shall be entitled to the recovery of reasonable attorneys'~~
21 ~~fees and costs.~~

22 ~~(c) The remedies provided under this section are~~
23 ~~eumulative to the remedies and penalties provided under~~
24 ~~any other provision of law.~~

25 ~~(d) For the purpose of this section the terms "seller,"~~
26 ~~"creditor," and "consumer" have the meaning set forth~~
27 ~~in Section 433.1 of Title 16 of the Code of Federal~~
28 ~~Regulations.~~

