

Commonly Asked Questions About The Right of Rescission in California

by: Glenn M. Gottlieb,
Association Legal Counsel

Here are the answers to a number of commonly asked questions about the right of rescission in California. If you have any other questions about the right of rescission, or any other topic of a legal nature, please feel free to call me at my law office at (310) 645-8824 -- as the Association's Legal Counsel, I don't charge for quick answers to these types of questions! (See the announcement elsewhere in this issue for my special deal for Association members.)

Q. Does the "Right of Rescission" apply to all alarm system contracts?

A. No, it does not apply to commercial contracts, but it does apply to essentially ALL residential contracts, whether for installation or for service. This means it DOES apply to "take-overs" of residential systems!

Q. Is it sufficient to have a notice in my contract of the consumer's right to rescind?

A. NO!! The law specifically requires that you also deliver to the consumer a "Notice of Cancellation", in duplicate, in the form required by law. If this form is not delivered, or if any other requirement of the statute is not complied with, the law allows the consumer to cancel the contract at any time! By the way, the statute also requires that the notice in the contract, using the language required by law, must be "conspicuous" and must appear in "immediate proximity to the space reserved for [the customer's] signature" -- in other words, it can't just be buried somewhere in the contract terms.

Q. I heard that the statute was amended to lengthen the rescission period from three to seven days if I install a personal emergency response device. Is that true?

A. Yes and no. In general, the rescission period has been lengthened to seven business days if the personal emergency response unit is not installed as a part of a home security alarm system which has at least two stationary intrusion or fire alarm devices. However, if the emergency response device is installed as a part of such a system subject to the Alarm Company Act, by an alarm company operator operating under a current license issued under the Act, the rescission period remains at three business days. By the way, the law

gives the consumer the right to cancel until midnight of the third or seventh business day, as the case may be, after the date of the transaction.

Q. O.k., I've made sure the notice is included properly in the contract document, and I deliver the proper form of notice, in duplicate, along with the paperwork. Does that satisfy the statute?

A. No, not yet. The statute also requires that, at the time the contract is signed, you inform the consumer orally of his or her right to cancel and of the requirement that the cancellation be in writing.

As you can see, the statute is quite demanding and the penalty for not complying with its terms is that your customer has the right to cancel until you do comply. If you're not certain that your forms meet the law's requirements, you should probably have the documents reviewed by a lawyer.

