A bill to be entitled

An act relating to automatic renewal of service contracts; providing definitions; requiring persons, firms, or corporations that sell services to consumers pursuant to certain contracts to disclose automatic renewal provisions; providing disclosure requirements; providing exceptions to the disclosure requirements; providing that certain violations will render an automatic renewal provision void and unenforceable; providing applicability; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. (1) DEFINITIONS.--As used in this act:

"Automatic renewal provision" means a provision under

which a service contract is renewed for a specified period if the renewal causes the service contract to be in effect more than 6 months after the day of the initiation of the service contract. Such renewal is effective unless the consumer gives notice to the seller of the consumer's intention to terminate

the service contract.

(b) "Consumer" means an individual receiving service,
maintenance, or repair under a service contract. The term does
not include an individual engaged in business if the individual
enters into the service contract as part of or ancillary to the
individual's business activities.

(c) "Seller" means an individual providing service, maintenance, or repair under a service contract to a consumer.

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(d) "Service contract" means a written contract for the performance of services over a fixed period of time or for a specified duration.

- (2) SERVICE CONTRACTS WITH AUTOMATIC RENEWAL PROVISIONS. --
- (a) Any person, firm, partnership, association, or corporation engaged in commerce that sells, leases, or offers to sell or lease any service to a consumer pursuant to a service contract that automatically renews unless the consumer cancels the contract shall disclose the automatic renewal provision clearly and conspicuously in the contract or contract offer.
- (b) Any person, firm, partnership, association, or corporation that sells or offers to sell any service to a consumer pursuant to a service contract the term of which is a specified term of 12 months or more and that automatically renews for a specified term of more than 1 month unless the consumer cancels the contract shall provide the consumer with written or electronic notification of the automatic renewal provision. Notification shall be provided to the consumer no less than 30 days and no more than 60 days before the cancellation deadline pursuant to the automatic renewal provision. Such notification shall disclose clearly and conspicuously:
- 1. That unless the consumer cancels the contract the contract will automatically renew.
- 2. Methods by which the consumer may obtain details of the automatic renewal provision and cancellation procedure, whether by contacting the seller at a specified telephone number or address, by referring to the contract, or by any other method.

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(c) A person, firm, partnership, association, or corporation that fails to comply with the requirements of this subsection is in violation of this subsection unless the person, firm, partnership, association, or corporation demonstrates that:

- 1. As part of its routine business practice, it has established and implemented written procedures to comply with this section and enforces compliance with the procedures.
- 2. Any failure to comply with this subsection is the result of error.
- 3. As part of its routine business practice, where an error has caused the failure to comply with this subsection, the unearned portion of the contract subject to the automatic renewal provision is refunded as of the date on which the seller is notified of the error.
  - (d) This subsection does not apply to:
- 1. A financial institution as defined in s. 655.005(1)(h),
  Florida Statutes, or any depository institution as defined in 12
  U.S.C. s. 1813(c)(2);
- 2. A foreign bank maintaining a branch or agency licensed under the laws of any state of the United States;
- 3. Any subsidiary or affiliate of an entity described in subparagraph 1. or subparagraph 2.;
- 4. A health studio as defined in s. 501.0125(1), Florida Statutes; or
  - 5. Any entity licensed under chapter 634.
- (e) A violation of this subsection renders the automatic renewal provision void and unenforceable.

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Section 2. This act shall take effect July 1, 2008, and shall apply only to contracts entered into on or after July 1, 2008.

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