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CHAMBER ACTION

Senate

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House

The Committee on Commerce (Oelrich) recommended the following amendment:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause and insert:

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

(a) "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.

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16       (b) "Consumer" means a person receiving service,  
17 maintenance, or repair under a service contract. The term does  
18 not include a person engaged in business for profit if the  
19 person enters into the service contract as part of the person's  
20 business activities.

21       (c) "Seller" means a person providing service,  
22 maintenance, or repair under a service contract.

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

26       (2) SERVICE CONTRACTS HAVING AUTOMATIC RENEWAL  
27 PROVISIONS.--

28       (a) Any person, firm, partnership, association, or  
29 corporation engaged in commerce that sells, leases, or offers to  
30 sell or lease any service to a consumer pursuant to a service  
31 contract that automatically renews unless the consumer cancels  
32 the contract shall disclose the automatic renewal provision  
33 clearly and conspicuously in the contract or contract offer.

34       (b) Any person, firm, partnership, association, or  
35 corporation that sells or offers to sell any service to a  
36 consumer pursuant to a service contract the term of which is a  
37 specified term of 12 months or more and that automatically  
38 renews for a specified term of more than 1 month unless the  
39 consumer cancels the contract shall provide the consumer with  
40 written or electronic notification of the automatic renewal  
41 provision. Notification shall be provided to the consumer no  
42 less than 30 days and no more than 60 days before the  
43 cancellation deadline pursuant to the automatic renewal

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44 provision. Such notification shall disclose clearly and  
45 conspicuously:

46 1. That unless the consumer cancels the contract, the  
47 contract will automatically renew.

48 2. Methods by which the consumer may obtain details of the  
49 automatic renewal provision and cancellation procedure, whether  
50 by contacting the seller at a specified telephone number or  
51 address, by referring to the contract, or by any other method.

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

57 1. As part of its routine business practice, it has  
58 established and implemented written procedures to comply with  
59 this section and enforces compliance with the procedures.

60 2. Any failure to comply with this subsection is the  
61 result of error.

62 3. As part of its routine business practice, if an error  
63 has caused the failure to comply with this subsection, it  
64 provides a full refund or credit for all amounts billed to or  
65 paid by the consumer from the date of the renewal until the date  
66 of the termination of the contract or the date of the subsequent  
67 notice of renewal, whichever occurs first.

68 (d) This subsection does not apply to:

69 1. A financial institution as defined in s. 655.005(1)(h),  
70 Florida Statutes, or any insured depository institution as  
71 defined in 12 U.S.C. s. 1813(c)(2);



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72           2. A foreign bank maintaining a branch or agency licensed  
73 under the laws of any state of the United States;

74           3. Any subsidiary or affiliate of an entity described in  
75 subparagraph 1. or subparagraph 2.; or

76           4. A health studio as defined in s. 501.0125(1), Florida  
77 Statutes.

78           (e) A violation of this subsection renders the automatic  
79 renewal provision void and unenforceable.

80           Section 2. This act shall take effect July 1, 2008, and  
81 applies only to contracts entered into on or after that date.

82  
83 ===== T I T L E   A M E N D M E N T =====

84 And the title is amended as follows:

85           Delete everything before the enacting clause  
86 and insert:

87                               A bill to be entitled  
88           An act relating to automatic renewal of service contracts;  
89           providing definitions; requiring persons, firms, or  
90           corporations that sell services to consumers pursuant to  
91           certain contracts to disclose automatic renewal  
92           provisions; providing disclosure requirements; providing  
93           exceptions to the disclosure requirements; providing that  
94           certain violations render an automatic renewal provision  
95           void and unenforceable; providing applicability; providing  
96           an effective date.