

By Senator Wise

5-03013-08

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1 A bill to be entitled

2 An act relating to automatic renewal of service contracts;  
3 providing definitions; requiring persons, firms, or  
4 corporations that sell products or services to consumers  
5 pursuant to certain contracts to disclose automatic  
6 renewal provisions; providing disclosure requirements;  
7 providing exceptions to the disclosure requirements;  
8 providing that certain violations will render an automatic  
9 renewal provision void and unenforceable; providing an  
10 effective date.

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

13  
14 Section 1. (1) DEFINITIONS.--As used in this act:

15 (a) "Automatic renewal provision" means a provision under  
16 which a service contract is renewed for a specified period if the  
17 renewal causes the service contract to be in effect more than 6  
18 months after the day of the initiation of the service contract.  
19 Such renewal is effective unless the consumer gives notice to the  
20 seller of the consumer's intention to terminate the service  
21 contract.

22 (b) "Consumer" means a person receiving service,  
23 maintenance, or repair under a service contract. The term does  
24 not include a person engaged in business for profit if the person  
25 enters into the service contract as part of the person's business  
26 activities.

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

29 (2) SERVICE CONTRACTS WITH AUTOMATIC RENEWAL PROVISIONS.--

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

37       (b) Any person, firm, partnership, association, or  
38 corporation that sells or offers to sell any product or service  
39 to a consumer pursuant to a service contract the term of which is  
40 a specified term of 12 months or more and that automatically  
41 renews for a specified term of more than 1 month unless the  
42 consumer cancels the contract shall notify the consumer in  
43 writing of the automatic renewal provision. Written notice shall  
44 be provided to the consumer no less than 30 days and no more than  
45 60 days before the cancellation deadline pursuant to the  
46 automatic renewal provision. Such written notice shall disclose  
47 clearly and conspicuously:

48       1. That unless the consumer cancels the contract, the  
49 contract will automatically renew.

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

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

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

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

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

69       (d) This subsection does not apply to banks, trust  
70 companies, savings and loan associations, savings banks, or  
71 credit unions licensed or organized under the laws of any state  
72 of the United States; any foreign bank maintaining a branch or  
73 agency licensed under the laws of any state of the United States;  
74 or any subsidiary or affiliate thereof.

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

77       Section 2. This act shall take effect July 1, 2008.