

By the Committee on Commerce; and Senator Wise

577-05243-08

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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 services to consumers pursuant to
5 certain contracts to disclose automatic renewal
6 provisions; providing disclosure requirements; providing
7 exceptions to the disclosure requirements; providing that
8 certain violations render an automatic renewal provision
9 void and unenforceable; providing applicability; providing
10 an effective date.

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

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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 if the person enters
25 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 (d) "Service contract" means a written contract for the

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30 performance of services over a fixed period of time or for a
31 specified duration.

32 (2) SERVICE CONTRACTS HAVING AUTOMATIC RENEWAL
33 PROVISIONS.--

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

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

51 1. That unless the consumer cancels the contract, the
52 contract will automatically renew.

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

57 (c) A person, firm, partnership, association, or
58 corporation that fails to comply with the requirements of this

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59 subsection is in violation of this subsection unless the person,
60 firm, partnership, association, or corporation demonstrates that:

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

64 2. Any failure to comply with this subsection is the result
65 of error.

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

72 (d) This subsection does not apply to:

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

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

78 3. Any subsidiary or affiliate of an entity described in
79 subparagraph 1. or subparagraph 2.;

80 4. A health studio as defined in s. 501.0125(1), Florida
81 Statutes;

82 5. Any entity licensed under chapter 634, Florida Statutes;
83 or

84 6. Automatic renewal provisions for a duration of 12 months
85 or less which are contained in service contracts with sellers
86 licensed under part II of chapter 489, Florida Statutes.

87 (e) A violation of this subsection renders the automatic

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88 | renewal provision void and unenforceable.

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