

By the Committees on Banking and Insurance; Commerce; and  
Senators Wise and Lynn

597-06370-08

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1 A bill to be entitled

2 An act relating to the automatic renewal of service  
3 contracts; providing definitions; requiring persons,  
4 firms, or corporations that sell 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 render an automatic  
9 renewal provision void and unenforceable; providing  
10 applicability; providing an 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 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, the  
68 unearned portion of the contract subject to the automatic renewal  
69 provision is refunded as of the date that the seller is notified  
70 of the error.

71 (d) This subsection does not apply to:

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

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

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

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

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

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

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

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