

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 will render an automatic renewal
 9 provision void and unenforceable; providing applicability;
 10 providing 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 section:

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

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

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

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

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

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

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

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

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

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

67 3. As part of its routine business practice, where an
68 error has caused the failure to comply with this subsection, the
69 unearned portion of the contract subject to the automatic
70 renewal provision is refunded as of the date on which the seller
71 is notified of the error.

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 depository institution as defined in 12
75 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
83 Statutes; or

84 6. Any private company as defined in s. 180.05, Florida

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85 Statutes, providing services described in chapter 180, Florida
86 Statutes, that is competing against a governmental entity or has
87 a governmental entity providing billing services on its behalf.

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

90 Section 2. This act shall take effect July 1, 2009, and
91 shall apply only to contracts entered into on or after that
92 date.