

1 A bill to be entitled
 2 An act relating to automatic renewal of service contracts;
 3 providing definitions; requiring sellers that sell, lease,
 4 or offer to sell or lease any 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
 10 applicability; providing an effective date.

11
 12 Be It Enacted by the Legislature of the State of Florida:

13
 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 of
 17 more than 1 month if the renewal causes the service contract to
 18 be in effect more than 6 months after the day of the initiation
 19 of the service contract. Such renewal is effective unless the
 20 consumer gives notice to the seller of the consumer's intention
 21 to terminate the service contract.

22 (b) "Consumer" means an individual, as defined in s.
 23 501.603, receiving service, maintenance, or repair under a
 24 service contract. The term does not include an individual
 25 engaged in business or employed by or otherwise acting on behalf
 26 of a governmental entity if the individual enters into the
 27 service contract as part of or ancillary to the individual's

28 business activities or on behalf of the business or governmental
29 entity.

30 (c) "Seller" means any person, firm, partnership,
31 association, or corporation engaged in commerce that sells,
32 leases, or offers to sell or lease any service to a consumer
33 pursuant to a service contract.

34 (d) "Service contract" means a written contract for the
35 performance of services over a fixed period of time or for a
36 specified duration.

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

38 (a) Any seller that sells, leases, or offers to sell or
39 lease any service to a consumer pursuant to a service contract
40 that automatically renews for a specified period of more than 1
41 month, unless the consumer cancels the contract, shall disclose
42 the automatic renewal provision clearly and conspicuously in the
43 contract or contract offer.

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

55 1. That unless the consumer cancels the contract the
56 contract will automatically renew.

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

61 (c) A seller that fails to comply with the requirements of
62 this subsection is in violation of this subsection unless the
63 seller demonstrates that:

64 1. As part of the seller's routine business practice, the
65 seller has established and implemented written procedures to
66 comply with this section and enforces compliance with the
67 procedures.

68 2. Any failure to comply with this subsection is the
69 result of error.

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

75 (d) This subsection does not apply to:

76 1. A financial institution as defined in s. 655.005(1)(h),
77 Florida Statutes, or any depository institution as defined in 12
78 U.S.C. s. 1813(c)(2).

79 2. A foreign bank maintaining a branch or agency licensed
80 under the laws of any state of the United States.

81 3. Any subsidiary or affiliate of an entity described in
82 subparagraph 1. or subparagraph 2.

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

85 5. Any entity licensed under chapter 627, chapter 634,
 86 chapter 636, or chapter 641, Florida Statutes.

87 6. Any electric utility as defined in s. 366.02(2),
 88 Florida Statutes.

89 7. Any private company as defined in s. 180.05, Florida
 90 Statutes, providing services described in chapter 180, Florida
 91 Statutes, that is competing against a governmental entity or has
 92 a governmental entity providing billing services on its behalf.

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

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