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LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
04/01/2009	.	
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The Committee on Banking and Insurance (Ring) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. (1) DEFINITIONS.-As used in this section:

(a) "Automatic renewal provision" means a provision under which a service contract is renewed for a specified period of more than 1 month if the renewal causes the service contract to be in effect more than 6 months after the day of the initiation of the service contract. Such renewal is effective unless the



611636

12 consumer gives notice to the seller of the consumer's intention  
13 to terminate the service contract.

14 (b) "Consumer" means an individual, as defined in s.  
15 501.603, receiving service, maintenance, or repair under a  
16 service contract. The term does not include an individual  
17 engaged in business or employed by or otherwise acting on behalf  
18 of a governmental entity if the individual enters into the  
19 service contract as part of or ancillary to the individual's  
20 business activities or on behalf of the business or governmental  
21 entity.

22 (c) "Seller" means any person, firm, partnership,  
23 association, or corporation engaged in commerce that sells,  
24 leases, or offers to sell or lease any service to a consumer  
25 pursuant to a service contract.

26 (d) "Service contract" means a written contract for the  
27 performance of services over a fixed period of time or for a  
28 specified duration.

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

30 (a) Any seller that sells, leases, or offers to sell or  
31 lease any service to a consumer pursuant to a service contract  
32 that automatically renews for a specified period of more than 1  
33 month, unless the consumer cancels the contract, shall disclose  
34 the automatic renewal provision clearly and conspicuously in the  
35 contract or contract offer.

36 (b) Any seller that sells or offers to sell any service to  
37 a consumer pursuant to a service contract the term of which is a  
38 specified period of 12 months or more and that automatically  
39 renews for a specified period of more than 1 month, unless the  
40 consumer cancels the contract, shall provide the consumer with



611636

41 written or electronic notification of the automatic renewal  
42 provision. Notification shall be provided to the consumer no  
43 less than 30 days or no more than 60 days before the  
44 cancellation deadline pursuant to the automatic renewal  
45 provision. Such notification shall disclose clearly and  
46 conspicuously:

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

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

53 (c) A seller that fails to comply with the requirements of  
54 this subsection is in violation of this subsection unless the  
55 seller demonstrates that:

56 1. As part of the seller's routine business practice, the  
57 seller has established and implemented written procedures to  
58 comply with this section and enforces compliance with the  
59 procedures.

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

62 3. As part of the seller's routine business practice, where  
63 an error has caused the failure to comply with this subsection,  
64 the unearned portion of the contract subject to the automatic  
65 renewal provision is refunded as of the date on which the seller  
66 is notified of the error.

67 (d) This subsection does not apply to:

68 1. A financial institution as defined in s. 655.005(1)(h),  
69 Florida Statutes, or any depository institution as defined in 12



611636

70 U.S.C. s. 1813(c) (2).  
71 2. A foreign bank maintaining a branch or agency licensed  
72 under the laws of any state of the United States.  
73 3. Any subsidiary or affiliate of an entity described in  
74 subparagraph 1. or subparagraph 2.  
75 4. A health studio as defined in s. 501.0125(1), Florida  
76 Statutes.  
77 5. Any entity licensed under chapter 624, chapter 627,  
78 chapter 634, chapter 636, or chapter 641, Florida Statutes.  
79 6. Any electric utility as defined in s. 366.02(2), Florida  
80 Statutes.  
81 7. Any private company as defined in s. 180.05, Florida  
82 Statutes, providing services described in chapter 180, Florida  
83 Statutes, that is competing against a governmental entity or has  
84 a governmental entity providing billing services on its behalf.  
85 (e) A violation of this subsection renders the automatic  
86 renewal provision void and unenforceable.  
87 Section 2. This act shall take effect July 1, 2009, and  
88 shall apply only to contracts entered into on or after that  
89 date.  
90  
91 ===== T I T L E A M E N D M E N T =====  
92 And the title is amended as follows:  
93 Delete everything before the enacting clause  
94 and insert:  
95 A bill to be entitled  
96 An act relating to automatic renewal of service  
97 contracts; providing definitions; requiring sellers  
98 that sell, lease, or offer to sell or lease any



611636

99 services to consumers pursuant to certain contracts to  
100 disclose automatic renewal provisions; providing  
101 disclosure requirements; providing exceptions to the  
102 disclosure requirements; providing that certain  
103 violations will render an automatic renewal provision  
104 void and unenforceable; providing applicability;  
105 providing an effective date.