

By Senator Justice

16-00837-09

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1                   A bill to be entitled  
2           An act relating to 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 will render an  
9           automatic renewal provision void and unenforceable;  
10          providing applicability; providing an effective date.

11  
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.

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 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.

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  
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 result  
66 of error.

67 3. As part of its routine business practice, where an error  
68 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 Statutes;  
83 or

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

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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 applies only to contracts entered into on or after that date.