

By the Committee on Commerce and Senator Justice

577-02180A-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.

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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 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 a governmental entity if the individual
26 or governmental entity enters into the service contract as part
27 of or ancillary to the individual's business activities or on
28 behalf of a business or governmental entity.

29 (c) "Seller" means any person or entity that is a service

577-02180A-09

2009660c1

30 contract provider.

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

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

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

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

52 1. That unless the consumer cancels the contract the
53 contract will automatically renew.

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

58 (c) A seller that fails to comply with the requirements of

577-02180A-09

2009660c1

59 this subsection is in violation of this subsection unless the
60 seller 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; and

66 3. As part of its routine business practice, where an error
67 has caused the failure to comply with this subsection, the
68 unearned portion of the contract subject to the automatic
69 renewal provision is refunded as of the date on which the seller
70 is notified 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 depository institution as defined in 12
74 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. Any private company as defined in s. 180.05, Florida
84 Statutes, providing services described in chapter 180, Florida
85 Statutes, that is competing against a governmental entity or has
86 a governmental entity providing billing services on its behalf.

87 (e) A violation of this subsection renders the automatic

577-02180A-09

2009660c1

88 renewal provision void and unenforceable.

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