

By Senator Justice

16-01402-10

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1                   A bill to be entitled  
2           An act relating to automatic renewal of service  
3           contracts; providing definitions; requiring sellers  
4           that sell, lease, or offer to sell or lease any  
5           services to consumers pursuant to certain contracts to  
6           disclose automatic renewal provisions; providing  
7           disclosure requirements; providing exceptions to the  
8           disclosure requirements; providing that certain  
9           violations will render an automatic renewal provision  
10          void and unenforceable; providing applicability;  
11          providing an effective date.

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13 Be It Enacted by the Legislature of the State of Florida:

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

16           (a) "Automatic renewal provision" means a provision under  
17 which a service contract is renewed for a specified period of  
18 more than 1 month if the renewal causes the service contract to  
19 be in effect more than 6 months after the day of the initiation  
20 of the service contract. Such renewal is effective unless the  
21 consumer gives notice to the seller of the consumer's intention  
22 to terminate the service contract.

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

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30 governmental entity.

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

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

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

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

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

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

58 2. Methods by which the consumer may obtain details of the

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59 automatic renewal provision and cancellation procedure, whether  
60 by contacting the seller at a specified telephone number or  
61 address, by referring to the contract, or by any other method.

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

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

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

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

76 (d) This subsection does not apply to:

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

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

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

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

86 5. Any entity licensed under chapter 624, chapter 627,  
87 chapter 634, chapter 636, or chapter 641, Florida Statutes.

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

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

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

96       Section 2. This act shall take effect July 1, 2010, and  
97 applies only to contracts entered into on or after that date.