

ENROLLED
CS/HB 751

2010 Legislature

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.

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

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29 governmental 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 has an automatic renewal provision, unless the consumer
41 cancels that contract, shall disclose the automatic renewal
42 provision clearly and conspicuously in the contract or contract
43 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.

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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; and

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.

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85 5. Any entity licensed under chapter 624, chapter 627,
86 chapter 634, 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, 2010, and
96 applies only to contracts entered into on or after that date.