

CHAPTER 2010-58

Committee Substitute for House Bill No. 751

An act relating to automatic renewal of service contracts; providing definitions; requiring sellers that sell, lease, or offer to sell or lease any services to consumers pursuant to certain contracts to disclose automatic renewal provisions; providing disclosure requirements; providing exceptions to the disclosure requirements; providing that certain violations will render an automatic renewal provision void and unenforceable; providing applicability; providing an effective date.

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

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 consumer gives notice to the seller of the consumer’s intention to terminate the service contract.

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

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

(d) “Service contract” means a written contract for the performance of services over a fixed period of time or for a specified duration.

(2) SERVICE CONTRACTS WITH AUTOMATIC RENEWAL PROVISIONS.—

(a) Any seller that sells, leases, or offers to sell or lease any service to a consumer pursuant to a service contract that has an automatic renewal provision, unless the consumer cancels that contract, shall disclose the automatic renewal provision clearly and conspicuously in the contract or contract offer.

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

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

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

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

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

1. As part of the seller’s routine business practice, the seller has established and implemented written procedures to comply with this section and enforces compliance with the procedures;

2. Any failure to comply with this subsection is the result of error; and

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

(d) This subsection does not apply to:

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

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

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

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

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

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

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

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

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

Approved by the Governor May 11, 2010.

Filed in Office Secretary of State May 11, 2010.