

By: Hinojosa
(Longoria)

S.B. No. 1835

Substitute the following for S.B. No. 1835:

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C.S.S.B. No. 1835

A BILL TO BE ENTITLED

AN ACT

relating to certain contract and notice requirements for the
cancellation of a health spa membership.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 702.304, Occupations Code, is amended to
read as follows:

Sec. 702.304. CANCELLATION AND REFUND NOTICE. (a) Except
as provided by Subsection (b), a contract must state in at least
10-point type that is boldfaced, capitalized, underlined, or
otherwise conspicuously distinguished from surrounding written
material:

(1) "NOTICE TO PURCHASER: DO NOT SIGN THIS CONTRACT
UNTIL YOU READ IT OR IF IT CONTAINS BLANK SPACES."

(2) "IF YOU DECIDE YOU DO NOT WISH TO REMAIN A MEMBER
OF THIS HEALTH SPA, YOU MAY CANCEL THIS CONTRACT BY PROVIDING NOTICE
~~[MAILING]~~ TO THE HEALTH SPA BY MIDNIGHT OF THE THIRD BUSINESS DAY
AFTER THE DAY YOU SIGN THIS CONTRACT ~~[A NOTICE]~~ STATING YOUR DESIRE
TO CANCEL THIS CONTRACT. ~~[THE WRITTEN NOTICE MUST BE MAILED BY~~
~~CERTIFIED MAIL TO THE FOLLOWING ADDRESS:~~

~~[(Address of the health spa home office).]~~"

(3) "IF AFTER MIDNIGHT OF THE THIRD BUSINESS DAY AFTER
THE DAY YOU SIGN THIS CONTRACT YOU DECIDE YOU DO NOT WISH TO REMAIN A
MEMBER OF THIS HEALTH SPA, YOU MAY CANCEL THIS CONTRACT BY PROVIDING
30 DAYS' NOTICE TO THE HEALTH SPA."

1 (4) [~~(3)~~] "IF THE HEALTH SPA GOES OUT OF BUSINESS AND
2 DOES NOT PROVIDE FACILITIES WITHIN 10 MILES OF THE FACILITY IN WHICH
3 YOU ARE ENROLLED OR IF THE HEALTH SPA MOVES MORE THAN 10 MILES FROM
4 THE FACILITY IN WHICH YOU ARE ENROLLED, YOU MAY:

5 (A) CANCEL THIS CONTRACT BY PROVIDING [~~MAILING BY~~
6 ~~CERTIFIED MAIL A WRITTEN~~] NOTICE STATING YOUR DESIRE TO CANCEL THIS
7 CONTRACT, ACCOMPANIED BY PROOF OF PAYMENT ON THE CONTRACT TO THE
8 HEALTH SPA [~~AT THE FOLLOWING ADDRESS:~~

9 [~~(Address of the health spa home office)~~]; AND

10 (B) FILE A CLAIM FOR A REFUND OF YOUR UNUSED
11 MEMBERSHIP FEES AGAINST THE BOND OR OTHER SECURITY POSTED BY THE
12 HEALTH SPA WITH THE TEXAS SECRETARY OF STATE. TO MAKE A CLAIM
13 AGAINST THE SECURITY PROVIDE A COPY OF YOUR CONTRACT TOGETHER WITH
14 PROOF OF PAYMENTS MADE ON THE CONTRACT TO THE TEXAS SECRETARY OF
15 STATE. THE REQUIRED CLAIM INFORMATION MUST BE RECEIVED BY THE
16 SECRETARY OF STATE NOT LATER THAN THE 90TH DAY AFTER THE DATE NOTICE
17 OF THE CLOSURE OR RELOCATION IS FIRST POSTED ON THE SECRETARY OF
18 STATE'S INTERNET WEBSITE."

19 (5) "IF YOU MOVE YOUR RESIDENCE MORE THAN 25 MILES FROM
20 A HEALTH SPA OPERATED BY (insert: the name of the health spa
21 registration holder), YOU MAY CANCEL THIS CONTRACT BY PROVIDING
22 NOTICE TO THE HEALTH SPA STATING YOUR DESIRE TO CANCEL THIS
23 CONTRACT. THE HEALTH SPA MAY REQUIRE REASONABLE PROOF OF THE MOVE."

24 (6) "IF ON A DOCTOR'S ORDER, YOU CANNOT PHYSICALLY
25 RECEIVE THE SERVICES PROVIDED BY THE HEALTH SPA FOR A PERIOD OF MORE
26 THAN THREE MONTHS BECAUSE OF A SIGNIFICANT PHYSICAL DISABILITY, YOU
27 MAY CANCEL THIS CONTRACT BY PROVIDING NOTICE TO THE HEALTH SPA. THE

1 HEALTH SPA MAY REQUIRE REASONABLE PROOF OF THE DISABILITY."

2 (7) [~~(4)~~] "IF YOU DIE OR BECOME TOTALLY AND
3 PERMANENTLY DISABLED AFTER THE DATE THIS CONTRACT TAKES EFFECT, YOU
4 OR YOUR ESTATE MAY CANCEL THIS CONTRACT AND RECEIVE A PARTIAL REFUND
5 OF YOUR UNUSED MEMBERSHIP FEE BY PROVIDING [~~MAILING A~~] NOTICE TO THE
6 HEALTH SPA STATING YOUR DESIRE TO CANCEL THIS CONTRACT. THE HEALTH
7 SPA MAY REQUIRE REASONABLE PROOF OF DISABILITY OR DEATH. [~~THE~~
8 ~~WRITTEN NOTICE MUST BE MAILED BY CERTIFIED MAIL TO THE FOLLOWING~~
9 ~~ADDRESS:~~

10 [~~(Address of the health spa home office).~~]"

11 (b) A health spa operator is required to include the
12 statement under Subsection (a)(4)(B) [~~(a)(3)(B)~~] in a contract only
13 if the operator is required to post security with the secretary of
14 state under Subchapter D.

15 (c) A health spa operator shall include a statement in a
16 contract that any notice a member provides to cancel a contract may
17 be given to a health spa:

18 (1) in person, by e-mail, by certified mail, or by
19 telephone; or

20 (2) for a contract entered into through an Internet
21 website, through an Internet website.

22 (d) A health spa operator shall include a statement in a
23 member contract describing the information a member must include in
24 a notice to cancel the member's contract.

25 SECTION 2. Section 702.307(a), Occupations Code, is amended
26 to read as follows:

27 (a) A member may cancel a contract and receive a full refund

1 of the payments made under the contract by providing to the
2 certificate holder for the health spa [~~sending~~], not later than
3 midnight of the third business day after the contract date,
4 [~~written~~] notice of cancellation, accompanied by proof of payment
5 made under the contract [~~, by certified mail to the certificate~~
6 ~~holder's home office~~].

7 SECTION 3. Section 702.308, Occupations Code, is amended by
8 amending Subsections (a), (b), and (c) and adding Subsections
9 (a-1), (a-2), and (a-3) to read as follows:

10 (a) A member may cancel a contract and receive a refund of
11 unearned payments made under the contract by providing to the
12 certificate holder for the health spa 30 days' notice accompanied
13 by proof of payment made under the contract.

14 (a-1) A member may cancel a contract and receive a refund of
15 unearned payments made under the contract by providing [~~sending~~
16 ~~written~~] notice of cancellation, accompanied by proof of payment
17 made under the contract, [~~by certified mail~~] to the certificate
18 holder for the health spa [~~holder's home office~~] if the certificate
19 holder:

20 (1) closes the health spa and fails to provide
21 alternative facilities not more than 10 miles from the location of
22 the health spa;

23 (2) relocates the health spa more than 10 miles from
24 its location preceding the relocation; or

25 (3) fails to provide advertised services.

26 (a-2) Subject to Subsection (a-3), a member may cancel a
27 contract and receive a refund of unearned payments made under the

1 contract by providing notice of cancellation, accompanied by proof
2 of payment made under the contract to the certificate holder for the
3 health spa, if the member:

4 (1) moves the member's residence more than 25 miles
5 from any health spa operated by the seller; or

6 (2) on a doctor's order, cannot physically receive the
7 services provided by the health spa for more than three months
8 because of a significant physical disability.

9 (a-3) If required by the certificate holder for the health
10 spa, a member is only entitled to cancel the member's contract and
11 receive a refund under Subsection (a-2) if the member provides the
12 required reasonable proof of the move under Subsection (a-2)(1) or
13 disability under Subsection (a-2)(2), as applicable.

14 (b) A member who dies or becomes totally and permanently
15 disabled after the date a contract is entered into, or the member's
16 estate, may cancel the contract and receive a refund of the unearned
17 payments made under the contract by providing to the certificate
18 holder for the health spa [~~sending written~~] notice of cancellation
19 [~~by certified mail to the certificate holder's home office~~]. The
20 certificate holder may require the member, or the member's estate,
21 to provide reasonable proof of the member's death or disability.

22 (c) A certificate holder who receives notice under
23 Subsection (a), (a-1), (a-2), or (b) shall refund the unearned
24 payments made under the contract to the member, or the member's
25 estate, as appropriate, not later than [~~that~~] the 30th day after the
26 date notice is received.

27 SECTION 4. This Act takes effect September 1, 2023.