

By: Howard of Fort Bend

H.B. No. 1702

A BILL TO BE ENTITLED

AN ACT

relating to restrictions on the automatic renewal of contracts.

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

SECTION 1. Title 4, Business & Commerce Code, is amended by adding Chapter 51 to read as follows:

CHAPTER 51. AUTOMATIC RENEWAL OF CONTRACTS

Sec. 51.001. APPLICABILITY. (a) This chapter applies only to the renewal of a contract if:

(1) the original contract term is for six months or more and the contract automatically renews for a term of at least one month; or

(2) the price for goods or services under the contract as renewed is different from the price of goods or services under the contract during the immediately preceding contract term.

(b) This chapter does not apply to a contract:

(1) with:

(A) a governmental entity; or

(B) a bank, trust company, savings bank, savings and loan association, or credit union organized under the laws of any state or the United States; or

(2) for the sale, lease, or management of real property.

Sec. 51.002. DEFINITIONS. In this chapter:

(1) "Automatic renewal clause" means a provision of a

1 contract that extends the term of or renews a contract if the
2 consumer does not take a specified action.

3 (2) "Consumer" means a person who acquires goods or
4 services for personal, family, or household purposes.

5 (3) "Seller" means a person who provides a service or
6 sells goods.

7 Sec. 51.003. REQUIREMENTS FOR AUTOMATIC RENEWAL. If a
8 contract between a seller and a consumer contains an automatic
9 renewal clause, the seller shall:

10 (1) for a contract described by Section 51.001(a)(1),
11 clearly and conspicuously disclose to the consumer the automatic
12 renewal clause and the procedure for canceling the automatic
13 renewal:

14 (A) at the time that the seller enters into the
15 contract with the consumer; or

16 (B) in writing not later than the 60th day after
17 the date the seller enters into the contract with the consumer; and

18 (2) give the consumer written notice of the automatic
19 renewal clause and the procedure for canceling the automatic
20 renewal not before the 90th day and not after the 15th day before
21 the last date on which the consumer may cancel the automatic
22 renewal.

23 Sec. 51.004. NOTICE OF AUTOMATIC RENEWAL. (a) Written
24 notice provided under Section 51.003(2) must clearly and
25 conspicuously disclose:

26 (1) that the contract will automatically renew if the
27 consumer does not cancel the automatic renewal;

1 (2) the cancellation procedure;

2 (3) a telephone number that a consumer may call to
3 cancel the automatic renewal; and

4 (4) the dates during which the consumer may cancel the
5 automatic renewal.

6 (b) A seller may opt to send to a consumer written notice
7 under Section 51.003(2) by mail, certified mail, or personal
8 service, or by including a statement in an invoice as provided by
9 Subsection (c). A notice that is mailed is considered given on the
10 date the notice is received.

11 (c) Notice included in an invoice must be in red ink or in
12 boldfaced type large enough to be easily noticed.

13 Sec. 51.005. CANCELLATION OF AUTOMATIC RENEWAL BY
14 TELEPHONE. A seller shall allow a consumer to cancel the automatic
15 renewal of a contract by contacting a telephone number provided by
16 the seller.

17 Sec. 51.006. CONSUMER'S RIGHT TO CANCEL. (a) A consumer
18 may cancel the automatic renewal of a contract at any time before
19 the beginning of the automatic renewal period, at no cost to the
20 consumer, by following the procedure set out in the disclosure and
21 notice provided under Sections 51.003 and 51.004.

22 (b) If the seller fails to provide either the disclosure
23 under Section 51.003(1), if required, or the notice required by
24 Section 51.003(2), the consumer may cancel the automatic renewal by
25 any reasonable means at any time, at no cost to the consumer.

26 (c) If a consumer cancels the automatic renewal as provided
27 by this section, the seller must cancel the automatic renewal with

1 no additional cost to the consumer.

2 Sec. 51.007. DECEPTIVE TRADE PRACTICE. (a) Except as
3 provided by Subsection (b), a violation of this chapter is a false,
4 misleading, or deceptive act or practice as defined by Section
5 17.46(b), and any remedy under Subchapter E, Chapter 17, is
6 available for a violation of this chapter.

7 (b) A violation of this chapter is not a false, misleading,
8 or deceptive act or practice if the seller can demonstrate that:

9 (1) as a part of its routine business practice, the
10 seller has established and implemented written procedures to comply
11 with this chapter and enforces compliance with the procedures;

12 (2) the violation of this chapter is the result of
13 error; and

14 (3) the seller prospectively canceled the renewed
15 contract within a reasonable time after becoming aware of the error
16 that caused the violation of this chapter, without penalty to the
17 consumer, and has not subsequently automatically renewed or revived
18 that same contract.

19 (c) Subsection (b)(3) does not relieve a consumer of the
20 consumer's duties under a contract before the date the contract is
21 canceled.

22 SECTION 2. The change in law made by Chapter 51, Business &
23 Commerce Code, as added by this Act, applies only to a contract
24 executed on or after September 1, 2007. A contract executed before
25 September 1, 2007, is governed by the law as it existed on the date
26 the contract was executed, and the former law is continued in effect
27 for that purpose.

1 SECTION 3. This Act takes effect September 1, 2007.