

By: Howard of Fort Bend

H.B. No. 2672

Substitute the following for H.B. No. 2672:

By: Elkins

C.S.H.B. No. 2672

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 12, Business & Commerce Code, is amended by adding Chapter 606 to read as follows:

CHAPTER 606. AUTOMATIC RENEWAL OF CONTRACTS

Sec. 606.001. 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 greater than the price of goods or services under the contract during the immediately preceding contract term.

(b) This chapter applies only to a contract that:

(1) is for:
(A) a service, including Internet or telephone service; or

(B) a magazine or newspaper subscription; and
(2) specifies a term during which the service or subscription will be provided.

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

(1) that has an original contract term of six months or more and automatically renews for a term of at least one month, if

1 the consumer:

2 (A) may cancel the contract after the original
3 contract term has expired without penalty; and

4 (B) is required to pay only the amount due for
5 each month the contract is in effect, including the month during
6 which the consumer canceled the contract, if services are provided
7 until the end of that month; or

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

10 Sec. 606.002. DEFINITIONS. In this chapter:

11 (1) "Automatic renewal clause" means a provision of a
12 contract that extends the term of or renews a contract if the
13 consumer does not take a specified action.

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

16 (3) "Seller" means a person who provides a service or
17 sells goods.

18 Sec. 606.003. REQUIREMENTS FOR AUTOMATIC RENEWAL. If a
19 contract between a seller and a consumer contains an automatic
20 renewal clause, the seller shall:

21 (1) for a contract described by Section 606.001(a)(1),
22 clearly and conspicuously disclose to the consumer the automatic
23 renewal clause and the procedure for canceling the automatic
24 renewal:

25 (A) at the time that the seller enters into the
26 contract with the consumer; or

27 (B) in writing not later than the 60th day after

1 the date the seller enters into the contract with the consumer; and
2 (2) give the consumer written notice of the automatic
3 renewal clause and the procedure for canceling the automatic
4 renewal not before the 90th day and not after the 15th day before
5 the last date on which the consumer may cancel the automatic
6 renewal.

7 Sec. 606.004. NOTICE OF AUTOMATIC RENEWAL. (a) Written
8 notice provided under Section 606.003(2) must clearly and
9 conspicuously disclose:

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

12 (2) the cancellation procedure;

13 (3) a facsimile number, electronic mail address,
14 telephone number, or mailing address that a consumer may contact to
15 cancel the automatic renewal; and

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

18 (b) A seller may opt to send to a consumer written notice
19 under Section 606.003(2) by mail, certified mail, or personal
20 service, by including a statement in an invoice as provided by
21 Subsection (c), or, if the consumer agrees, by written electronic
22 communication, including electronic mail. The seller may assume
23 that written notice deposited with the United States Postal Service
24 with first class postage paid will be received by the consumer on
25 the third federal business day after the notice is so deposited.

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

1 Sec. 606.005. CANCELLATION OF AUTOMATIC RENEWAL BY
2 FACSIMILE, ELECTRONIC MAIL, TELEPHONE, OR MAIL. A seller shall
3 allow a consumer to cancel the automatic renewal of a contract by
4 contacting a facsimile number, electronic mail address, telephone
5 number, or mailing address provided by the seller.

6 Sec. 606.006. CONSUMER'S RIGHT TO CANCEL. (a) A consumer
7 may cancel the automatic renewal of a contract at any time before
8 the beginning of the automatic renewal period, at no cost to the
9 consumer, by following the procedure set out in the disclosure and
10 notice provided under Sections 606.003 and 606.004.

11 (b) If the seller fails to provide either the disclosure
12 under Section 606.003(1), if required, or the notice required by
13 Section 606.003(2), the consumer may cancel the automatic renewal
14 by any reasonable means at any time, at no cost to the consumer.

15 (c) If a consumer cancels the automatic renewal as provided
16 by this section, the seller must cancel the automatic renewal with
17 no additional cost to the consumer.

18 SECTION 2. The change in law made by Chapter 606, Business &
19 Commerce Code, as added by this Act, applies only to a contract
20 executed on or after September 1, 2009. A contract executed before
21 September 1, 2009, is governed by the law as it existed on the date
22 the contract was executed, and the former law is continued in effect
23 for that purpose.

24 SECTION 3. This Act takes effect September 1, 2009.