
**Consumer Protection & Business
Committee**

HB 1441

Brief Description: Concerning the use of automatic renewal provisions in business equipment and business services contracts.

Sponsors: Representatives Chambers, Walen and Springer.

Brief Summary of Bill

- Requires disclosures for contracts entered into after May 1, 2024, that contain automatic extension or renewal provisions for terms greater than one month.
- Makes unenforceable an automatic renewal or extension provision for a term greater than one year and with a deadline to decline exceeding 60 days after May 1, 2024, unless a seller provides a customer with timely written notice about the renewal or extension.
- Prohibits a requirement in a contract that a seller be permitted to match another's offer for business contracts.
- Allows a customer of a business contract to bring an action for damages, and awards a prevailing customer damages, costs, and attorney's fees.

Hearing Date: 1/27/23

Staff: Michelle Rusk (786-7153).

Background:

Some contracts may contain an automatic renewal clause, providing that at the end of the term of

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

the contract, the contract term automatically renews for a subsequent time period, often for the same length of time as the initial term, unless either party gives the other party notice of termination within a certain time period before the end of the current term. These automatic renewal clauses are often included in service, distribution, and supply contracts. Customers who cancel a contract with a renewal period might not be able to obtain a refund for payments made, unless they provided notice of cancellation within an allowable timeframe required by the contract.

Summary of Bill:

Renewal for More than One Month—Contracts after May 1, 2024.

If a business contract entered into after May 1, 2024, provides that it will automatically renew or extend for an additional period of more than one month unless the customer declines, the seller must do one of the following:

- present the customer with a form containing required disclosures at the time the customer enters into the contract, and obtain the customer's signature; or
- include the required disclosures in the contract in a conspicuous manner and obtain the customer's initials where the disclosures appear.

The required disclosures must contain:

- a statement that the contract will be renewed or extended unless the customer declines;
- a statement indicating the duration of the additional contract renewal or extension period;
- a statement indicating whether an increase in charges to the customer will apply upon an automatic renewal or extension;
- a description of action the customer must take to decline renewal or extension; and
- the date of the deadline for the customer to decline renewal or extension.

If a seller fails to comply with the required disclosure, the automatic renewal or extension provision is unenforceable and the contract terminates at the end of the current contract term. The required disclosures do not apply to a contract in effect on May 1, 2024, or to subsequent renewals of such a contract.

Renewal for More than One Year.

If a contract meets the following requirements, its automatic renewal or extension provision will be unenforceable and the contract will terminate at the end of the current term, unless the seller provides timely written notice to a customer before the renewal or extension deadline:

- the contract has an initial term greater than one year;
- the contract will automatically renew or extend for a term greater than one year unless the customer declines; and
- the deadline for the customer to decline is more than 60 days after May 1, 2024.

A seller's written notice must be provided by the seller at least 15 days, but not more than 60 days, before the deadline for the customer to decline renewal or extension. The written notice must include:

- a statement that the contract will be renewed or extended unless the customer declines renewal or extension;
- the deadline for the customer to decline renewal or extension;
- a description of any increase in charges to the customer that will apply after renewal or extension; and
- a description of action that the customer must take to decline renewal or extension.

Four methods are prescribed for how a seller may provide a customer with a required timely written notice, and additional methods are available, including fax or email, if the contract between a seller and customer permits that form of communication.

Restriction on Required Offer Matching.

No business contract between a seller and a customer, entered into, modified, or renewed after May 1, 2024, may require that a customer permit a seller to match any offer the customer receives from, or makes to, another seller for services to be provided after the end of the stated term of the contract or renewal period of the contract. A provision that violates this restriction is void and unenforceable.

Action for Damages.

An action or counterclaim for damages against a seller may be brought by a customer:

- for a contract with an initial term greater than one year, a renewal or extension period greater than one year, and deadline to decline more than 60 days after May 1, 2024, when: (1) a seller failed to provide the required notice; (2) the seller has refused to terminate the contract; and (3) the customer has notified the seller that the customer declines renewal or extension; or
- when a seller has attempted to enforce a provision that violates the restriction on requiring offer matching.

A prevailing customer is entitled to:

- damages in an amount either: (1) twice the amount of the damages incurred by the customer; or (2) twice the amount of the periodic payment specified in the contract or \$1,000, whichever is less; and
- costs, including reasonable attorneys' fees.

A seller is not liable if the court finds either of the following:

- all of the following occur: (1) the seller has established and implemented written procedures for compliance; (2) the seller's failure to comply with notice requirements, or the seller's attempt to enforce an unenforceable provision, was not willful or malicious; and (3) the seller properly paid a refund; or
- the customer requested, in writing, renewal or extension and the customer was aware of the renewal or extension terms.

Definitions are provided for the terms "business contract," "customer," and "seller."

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.