

Senate Bill 127

By: Senators Bearden of the 30th, Brass of the 6th, Anavitarte of the 31st, Strickland of the 42nd, Albers of the 56th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 13 of the Official Code of Georgia Annotated, relating to contracts, so as to
2 make certain disclosure and notification requirements concerning automatic renewal
3 provisions applicable to service contracts with small businesses; to revise and provide for
4 definitions; to provide for related matters; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

7 Title 13 of the Official Code of Georgia Annotated, relating to contracts, is amended by
8 revising Chapter 12, relating to automatic renewal provisions, as follows:

9 "CHAPTER 12

10 13-12-1.

11 As used in this chapter, the term:

12 (1) 'Automatic renewal provision' means a provision under which a service contract is
13 renewed for a specified period of more than one month if the renewal causes the service
14 contract to be in effect more than six months after the day of the initiation of the service

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15 contract. Such renewal is effective unless the consumer or small business gives notice
16 to the seller of the consumer's or small business's intention to terminate the service
17 contract.

18 (2) 'Consumer' means a natural person or a nonprofit organization exempt from taxation
19 under Section 501(c)(3) of the Internal Revenue Code of 1986 receiving service,
20 maintenance, or repair benefits under a service contract. The term does not include a
21 natural person engaged in business or employed by or otherwise acting on behalf of a
22 governmental entity if the person enters into the service contract as part of or ancillary
23 to the person's business activities or on behalf of the business or governmental entity.

24 (3) 'Seller' means any person, firm, partnership, association, or corporation engaged in
25 commerce that sells, leases, or offers to sell or lease any service to a consumer or small
26 business pursuant to a service contract.

27 (4) 'Service contract' means a written contract for the performance of services for a
28 specified period of time.

29 (5) 'Small business' means a business that is independently owned and operated, is not
30 dominant in its field of operation, and employs fewer than 200 employees.

31 13-12-2.

32 Any seller that sells, leases, or offers to sell or lease any service to a consumer or small
33 business pursuant to a service contract that has an automatic renewal provision shall
34 disclose the automatic renewal provision clearly and conspicuously in the contract or
35 contract offer.

36 13-12-3.

37 (a) Any seller that sells, leases, or offers to sell or lease any service to a consumer or small
38 business pursuant to a service contract for a specified period of 12 months or more and that
39 automatically renews for a specified period of more than one month, unless the consumer

40 or small business cancels the contract, shall provide the consumer or small business with
41 written or electronic notification of the automatic renewal provision. Notification shall be
42 provided to the consumer or small business no less than 30 days or no more than 60 days
43 before the cancellation deadline pursuant to the automatic renewal provision. Such
44 notification shall disclose clearly and conspicuously:

45 (1) That unless the consumer or small business cancels the contract, the contract will
46 automatically renew; and

47 (2) The methods by which the consumer or small business may obtain details of the
48 automatic renewal provision and cancellation procedure, including contacting the seller
49 at a specified telephone number or address, referring to the contract, or any other method.

50 (b) For any contract for service to a consumer or small business that automatically renews
51 for a specified period of more than 24 months, the seller shall, in addition to providing the
52 notification required under subsection (a) of this Code section, obtain the following for the
53 automatic renewal provision of such contract to be enforceable:

54 (1) Written or electronic acknowledgment from the consumer or small business of
55 receipt of the notification required under subsection (a) of this Code section; and

56 (2) An affirmative written or electronic response that the consumer or small business
57 does not intend to terminate the service contract.

58 13-12-4.

59 This chapter shall not apply to:

60 (1) A financial institution as provided in Chapter 1 or 2 of Title 7 or any depository
61 institution as defined in 12 U.S.C. Section 1813(c)(2);

62 (2) A foreign bank maintaining a branch or agency licensed under the laws of any state
63 of the United States;

64 (3) Any subsidiary or affiliate of an entity provided in paragraph (1) or (2) of this Code
65 section;

- 66 (4) Any electric utility as provided in Chapter 3 of Title 46;
67 (5) Any entity regulated pursuant to Chapter 45 of Title 43; ~~or~~
68 (6) Any county, municipal corporation, authority, or local government or governing
69 body; or
70 (7) Any service contract between a seller and a small business wherein the small
71 business is required to pay more than \$200.00 in consideration on a monthly basis for the
72 services to be provided thereunder or the equivalent thereof for any other installment
73 period provided in such service contract.

74 13-12-5.

75 A violation of this chapter renders the automatic renewal provision of a contract void and
76 unenforceable."

77 **SECTION 2.**

78 All laws and parts of laws in conflict with this Act are repealed.