

ACT 139

H.B. NO. 663

A Bill for an Act Relating to Contracts.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 481, Hawaii Revised Statutes, is amended by adding a new section to part I to be appropriately designated and to read as follows:

“§481- Automatic renewal clauses. (a) Any person who sells or offers to sell any products or services to a consumer pursuant to a consumer contract that has a specified term of more than one month and an automatic renewal clause under which the contract will automatically renew for a specified term of more than one month unless the consumer cancels the contract, shall disclose the automatic renewal clause and the procedure by which the consumer can cancel automatic renewal of the consumer contract clearly and conspicuously in the consumer contract.

(b) Any person who sells or offers to sell any products or services to a consumer pursuant to a consumer contract that has a specified contract term of twelve months or more, under which the contract will automatically renew for a specified term of more than one month unless the consumer cancels the consumer contract, shall notify the consumer clearly and conspicuously:

- (1) That the consumer contract will automatically renew unless the consumer cancels the contract;
- (2) How to cancel the contract; and
- (3) The deadline by which the consumer shall respond to cancel the consumer contract and prevent automatic renewal.

The notice provided to the consumer under this subsection shall be sent to the consumer no less than thirty days and no more than sixty days before the date upon which the consumer shall respond under paragraph (3).

(c) The notice to the consumer required by this section may be provided electronically if the:

- (1) Transaction for sale of products or services was conducted electronically at the election of the consumer and in compliance with the requirements of chapter 489E, the uniform electronic transactions act; or
- (2) Consumer elects to receive electronic communications and provides a valid electronic-mail address for the purpose of receiving the notice required by this section.

(d) Any person who knowingly violates this section or who knowingly fails to cancel an automatic renewal contract upon consumer request shall be deemed to have engaged in an unfair method of competition and unfair or deceptive act or practice in the conduct of any trade or commerce within the meaning of section 480-2.

(e) This section shall not apply to any:

- (1) Financial institution subject to chapter 412 to the extent that the financial institution is engaged in activities regulated pursuant to chapter 412; and
 - (2) Insurer subject to chapter 431, 432, or 432D to the extent that the insurer is engaged in activities regulated pursuant to those chapters.
- (f) For purposes of this section:

“Clearly and conspicuously” means in larger type than the surrounding text; in contrasting type, font, or color to the surrounding text of the same size; or set off from the surrounding text of the same size by symbols or other marks in a manner that clearly calls attention to the language. In the case of an audio disclosure, “clear and conspicuous” and “clearly and conspicuously” mean in a volume and cadence sufficient to be readily audible and understandable.

“Consumer” shall have the same meaning as in section 480-1.”

SECTION 2. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 3. New statutory material is underscored.¹

SECTION 4. This Act shall take effect upon its approval; provided that section 1 shall take effect on July 1, 2012.

(Approved June 20, 2011.)

Note

1. Edited pursuant to HRS §23G-16.5.