

**Representative Johnny Anderson** proposes the following substitute bill:

**SERVICE CONTRACTS ACT AMENDMENTS**

2011 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Johnny Anderson**

Senate Sponsor: Daniel W. Thatcher

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**LONG TITLE**

**General Description:**

This bill modifies the Service Contracts Act to address regulation of automatic renewals.

**Highlighted Provisions:**

This bill:

- ▶ modifies definitions;
- ▶ addresses notice requirements;
- ▶ addresses remedy provisions; and
- ▶ makes technical and conforming amendments.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill takes effect on July 1, 2011.

**Utah Code Sections Affected:**

AMENDS:

**15-10-102**, as last amended by Laws of Utah 2006, Chapter 167

**15-10-201**, as last amended by Laws of Utah 2006, Chapter 167

**15-10-202**, as enacted by Laws of Utah 2003, Chapter 46



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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **15-10-102** is amended to read:

**15-10-102. Definitions.**

As used in this chapter:

(1) "Automatic renewal provision" means a provision under which a service contract is renewed for ~~[a]~~ one or more specified ~~[period]~~ periods if:

(a) the renewal causes the service contract to be in effect more than six months after the day of the initiation of the service contract; and

(b) the renewal is effective unless the consumer gives notice to the seller of the consumer's intention to terminate the service contract.

(2) "Business consumer" means a person engaged in business for profit if the person enters into a service contract as part of the person's business activities.

~~[(2)]~~ (3) (a) ~~[Except as provided in Subsection (2)(c), "consumer"]~~ "Consumer" means a person receiving service, maintenance, or repair under a service contract.

(b) "Consumer" includes a representative of an association subject to:

(i) Title 57, Chapter 8, Condominium Ownership Act; or

(ii) Title 57, Chapter 8a, Community Association Act.

~~[(c) "Consumer" does not include a person engaged in business for profit if the person enters into the service contract as part of the person's business activities.]~~

~~[(3)]~~ (4) "Seller" means a person providing service, maintenance, or repair under a service contract.

~~[(4)]~~ (5) (a) "Service contract" means ~~[any]~~ a contract for service, maintenance, or repair:

(i) in connection with ~~[any]~~ real property; or

(ii) that provides a benefit to ~~[any]~~ the real property.

(b) "Service contract" does not include a contract affecting any right, title, estate, or interest in real property, including:

(i) a fee title interest;

(ii) a leasehold interest;

(iii) an option contract relating to real property;

- 57 (iv) a real estate purchase contract;
- 58 (v) an easement; or
- 59 (vi) any other real property interest governed by Title 57, Real Estate.

60 Section 2. Section **15-10-201** is amended to read:

61 **15-10-201. Notice requirement.**

62 (1) ~~[A]~~ (1) (a) Except as provided in Subsection (1)(b), a service contract may not  
63 contain an automatic renewal provision unless the seller provides the consumer written notice  
64 complying with Subsection (2) that informs the consumer of the automatic renewal provision.

65 (b) For a service contract with a business consumer executed on or after July 1, 2011,  
66 the service contract may not contain an automatic renewal provision that exceeds 12 months  
67 for each renewal unless the seller provides the consumer written notice complying with  
68 Subsection (2) that informs the consumer of the automatic renewal provision.

69 (2) (a) For a service contract executed on or after July 1, 2011, a seller shall provide  
70 written notice of an automatic renewal provision prominently displayed on the first page of the  
71 service contract.

72 ~~[(2)(a) The]~~ (b) In addition to complying with Subsection (2)(a), a seller shall provide  
73 [the] written notice required under Subsection (1) to the consumer:

- 74 (i) personally;
- 75 (ii) by certified mail; or
- 76 (iii) prominently displayed on the first page of a monthly statement.

77 ~~[(b)(i) The]~~ (c) (i) A seller shall provide [the] written notice [required] under  
78 Subsection ~~[(1)]~~ (2)(b):

79 (A) no later than 30 calendar days before the last day on which the consumer may give  
80 notice of the consumer's intention to terminate the service contract; and

81 (B) no sooner than 90 calendar days before the last day on which the consumer may  
82 give notice of the consumer's intention to terminate the service contract.

83 (ii) ~~[The]~~ A seller may not provide [the] written notice required under Subsection (1)  
84 except:

85 (A) as provided in Subsection (2)(a); or

86 (B) during the time period described in Subsection ~~[(2)(b)(i)]~~ (2)(c)(i).

87 ~~[(c) The written]~~ (d) Written notice required under Subsection (1) shall be:

- 88 (i) written in clear and understandable language; and
- 89 (ii) printed in an easy-to-read type size and style.

90 Section 3. Section **15-10-202** is amended to read:

91 **15-10-202. Remedy for violation.**

92 [~~ff~~] (1) Subject to Subsection (2), if a seller does not comply with Section 15-10-201  
93 with respect to a service contract containing an automatic renewal provision:

94 [~~1~~] (a) the automatic renewal provision is void and unconscionable as a matter of  
95 public policy; and

96 [~~2~~] (b) the service contract shall automatically renew on a month-to-month basis.

97 (2) Subsection (1) applies to an automatic renewal provision in a service contract with  
98 a business consumer for which a seller does not comply with Section 15-10-201 only if the  
99 service contract is executed on or after July 1, 2011.

100 Section 4. **Effective date.**

101 This bill takes effect on July 1, 2011.