



HOUSE BILL 686: Automatic Renewal of Contracts.

2019-2020 General Assembly

Committee:	House Judiciary. If favorable, re-refer to Rules, Calendar, and Operations of the House	Date:	May 3, 2019
Introduced by:	Rep. Stevens	Prepared by:	Brad Krehely
Analysis of:	PCS to First Edition H686-CSR-35		Committee Co-Counsel

OVERVIEW: *The Proposed Committee Substitute (PCS) for House Bill 686 amends the requirements for certain automatically renewing consumer contracts. The PCS rewrites the bill.*

CURRENT LAW: Under G.S. 75-41, any person engaged in commerce that sells, leases, or offers to sell or lease, any products or services to a consumer pursuant to a contract, where the contract automatically renews unless the consumer cancels the contract, must do all of the following:

- Disclose the automatic renewal clause clearly and conspicuously in the contract or offer.
- Disclose clearly and conspicuously how to cancel the contract in the initial contract, offer, or with delivery of products or services.
- For any automatic renewal exceeding 60 days, provide written notice to the consumer by personal delivery, email, or first class mail, at least 15 days but no earlier than 45 days before the date the contract is to be automatically renewed, stating the date on which the contract is scheduled to automatically renew and notifying the consumer that the contract will automatically renew unless it is cancelled prior to that date.
- If the terms of the contract will change upon the automatic renewal of the contract, disclose the changing terms of the contract clearly and conspicuously on the notification in at least 12 point type and in bold print.

A person who fails to comply with these requirements is in violation of this section unless the person demonstrates that all of the following are its routine business practice:

- The person has established and implemented written procedures to comply with this section and enforces compliance.
- Failure to comply is the result of error.
- Where an error has caused the failure to comply, the person provides a full refund or credit for all amounts billed to or paid by the consumer from the date of the renewal until the date of the termination of the contract, or the date of the subsequent notice of renewal, whichever occurs first.

A violation of this section renders the automatic renewal clause void and unenforceable.

This section does not apply to:

- Insurers licensed under Chapter 58.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

House PCS 686

Page 2

- Banks, trust companies, savings and loan associations, savings banks, or credit unions licensed or organized under the laws of any state or the United States, and certain foreign banks.
- Entities regulated by the Federal Communications Commission or by the North Carolina Utilities Commission, or to any entity doing business directly or through an affiliate pursuant to a franchise, license, certificate, or other authorization issued by a political subdivision of the State or an agency thereof.
- Real estate professionals licensed under Chapter 93.

BILL ANALYSIS: The PCS for House Bill 686 requires a person proving an automatic renewal contract under G.S. 75-41 to do all of the following:

- Provide a disclosure statement that clearly and conspicuously provides notice of all of the following:
 - That the contract will be automatically renewed if the consumer agrees to the contract.
 - The length of the initial term and the length of each renewal period under the contract.
 - The amount to be charged to the consumer for the initial term and for any renewal periods.
 - If any terms will change when the contract is renewed, a list and explanation of those terms. The changing terms are no longer required to be in at least 12 point type and in bold print.
 - An email address, mailing address, toll-free number, or another cost effective and easy-to-use mechanism that the consumer may use to terminate the automatic renewal.
- Obtain the consumer's affirmative consent before charging the consumer for an automatic renewal.
- For any automatic renewal of 12 months or more (currently, exceeding 60 days), provide notice to the consumer at least 15 days, but no earlier than 60 days (currently, no earlier than 45 days) before the date the contract is to be automatically renewed. In addition to the types of notice currently listed in the statute, it also allows notice by "any other form of notice agreed to by the consumer" and is not required to be in writing.

EFFECTIVE DATE: The act becomes effective January 1, 2020, and applies to contracts entered into on or after that date.