

[Second Reprint]

ASSEMBLY, No. 1460

STATE OF NEW JERSEY

218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

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SYNOPSIS

Establishes notification standards for certain service contracts with automatic renewal.

CURRENT VERSION OF TEXT

As reported by the Assembly Appropriations Committee on January 6, 2020, with amendments.

(Sponsorship Updated As Of: 1/14/2020)

1 AN ACT concerning service contracts and supplementing P.L.1960,
2 c.39 (C.56:8-1 et seq.).

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. As used in this act:

8 “Automatic renewal provision” means a provision under which a
9 service contract is renewed for a specified period of more than one
10 month if: (1) the renewal causes the service contract to be in effect
11 more than six months after the day of the initiation of the service
12 contract; and (2) the renewal is effective unless the consumer gives
13 notice to the seller of the consumer’s intention to terminate the
14 service contract.

15 “Consumer” means a natural person who buys other than for
16 purposes of trade any tangible personal property that is distributed
17 in commerce and that is normally used for personal, family, or
18 household purposes and not for business or research purposes.

19 “Propane gas marketer” means a person engaged primarily in the
20 sale of odorized liquefied petroleum gas to the ultimate consumer or
21 to a retail liquefied petroleum gas dispenser, and includes the owner
22 or operator of a bulk plant.

23 “Seller” means any natural person, firm, partnership, company,
24 corporation, association, or other similar legal entity engaged in
25 commerce that sells, leases, or offers to sell or lease any service to a
26 consumer pursuant to a service contract.

27 “Service contract” means a written contract for the performance
28 of service, maintenance, or repair over a fixed period of time or for
29 a specified duration in connection with any real property or that
30 provides a benefit to any real property.

31 “Warranty” means a warranty made solely by the manufacturer,
32 importer, or seller of property or services without consideration,
33 that is incidental to, and not negotiated or separated from, the sale
34 of the property or services, that guarantees indemnity for defective
35 materials, parts, mechanical or electrical breakdown, labor, or
36 workmanship, or provides other remedial measures, including repair
37 or replacement of the property or repetition of services.

38
39 2. a. Any seller that sells, leases or offers to sell or lease any
40 service to a consumer pursuant to a service contract that has an
41 automatic renewal provision shall disclose the automatic renewal
42 provision clearly and conspicuously in the contract or contract
43 offer.

44 b. Any seller that sells or offers to sell any service to a
45 consumer pursuant to a service contract the term of which is a

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly ACO committee amendments adopted November 14, 2019.

²Assembly AAP committee amendments adopted January 6, 2020.

1 specified period of 12 months or more and that automatically
2 renews for a specified period of more than one month, unless the
3 consumer cancels the contract, shall provide the consumer with
4 written or electronic notification of the automatic renewal
5 provision. Notification shall be provided to the consumer not less
6 than 30 days nor more than 60 days before the cancellation deadline
7 pursuant to the automatic renewal provision. This notification shall
8 disclose clearly and conspicuously:

9 (1) That unless the consumer cancels the contract the contract
10 will automatically renew; and

11 (2) Methods by which the consumer may obtain details of the
12 automatic renewal provision and cancellation procedure, whether by
13 contacting the seller at a specified telephone number or address, by
14 referring to the contract, or by any other method.

15 c. As part of the seller's routine business practice, where an
16 error has caused the failure to comply with the provisions of this
17 section, the unearned portion of the contract subject to the
18 automatic renewal provision shall be refunded as of the date on
19 which the seller is notified of the error.

20 d. The seller shall provide written or electronic notification to
21 the consumer not less than 30 days nor more than 60 days before
22 any change in the procedures required of the consumer to cancel the
23 automatic renewal provision.

24
25 3. The following shall be exempt from the provisions of this
26 act:

27 a. ~~1[warranties]~~ a warranty¹;

28 b. 1a¹ service ~~1[contracts]~~ contract¹ on tangible property if the
29 tangible property for which the service contract is sold has a
30 purchase price of \$250 or less, excluding sales tax;

31 c. 1a¹ service ~~1[contracts]~~ contract¹ with a bank, trust
32 company, savings bank, savings and loan association, credit union,
33 insurance company, or health maintenance organization organized
34 under the laws of any state or the United States; ~~1[and]~~¹

35 d. 1a¹ service ~~1[contracts]~~ contract¹ issued, offered, or sold:

36 (1) by a cable, electric, gas, telecommunication, or water public
37 utility regulated by the Board of Public Utilities, 1by a propane gas
38 marketer,¹ ~~2[or]~~² by a person providing central heating and air
39 conditioning services², or by a New Jersey-licensed burglar alarm
40 or fire alarm business which provides integrated security and life
41 safety systems and which may be required to maintain alarm system
42 compliance, on an ongoing basis, pursuant to applicable statutory or
43 regulatory requirements or insurance company standards²; or

44 (2) to any person other than a consumer ¹;

45 e. 2except as provided in subsection b. of section 5 of this act,²
46 a service contract containing a provision allowing the consumer to
47 cancel the service contract at any time, if the service contract

- 1 permits the consumer to cancel: by telephone; in writing, by mail;
2 or by email. In order to be exempt under this subsection, the
3 service contract shall make each method of cancellation available to
4 a consumer and only shall require a consumer to cancel by one
5 method^{1 2}; and
6 f. news media, to the extent that the news media accept or
7 publish any advertising that falls within the scope of this act².
8
- 9 4. a. This act shall not limit rights or remedies available to a
10 consumer under any other law.
- 11 b. If a seller does not comply with the provisions of this act,
12 the automatic renewal provision shall be void and unenforceable
13 and the seller shall refund the consumer for the unearned portion of
14 the automatically renewed service contract.
15
- 16 5. a. Except as provided in subsection b. of this section, a
17 violation of section 2 of this act shall be an unlawful practice and a
18 violation of P.L.1960, c.39 (C.56:8-1 et seq.).
- 19 b. A seller of a service contract with an automatic renewal
20 provision that allows a consumer to cancel the service contract at
21 any time during the contract and provides proper notification to a
22 consumer pursuant to subsections a., b., and d. of section 2 of this
23 act shall not be subject to the penalties set forth in subsection a. of
24 this section if the seller refunds the consumer the unearned portion
25 of the contract subject to the automatic renewal provision.
26
- 27 6. This act shall take effect on the first day of the third month
28 next following the date of enactment, and shall apply to service
29 contracts entered into on or after that date.