

HOUSE BILL 1372

I3

8lr1825

By: **Delegate Waldstreicher**

Introduced and read first time: February 9, 2018

Assigned to: Economic Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 14, 2018

CHAPTER _____

1 AN ACT concerning

2 **Consumer Protection – Consumer Contracts Renewal – Restrictions**

3 FOR the purpose of prohibiting a consumer contract from containing a certain renewal
4 term, except under certain circumstances; requiring a certain person who sells or
5 leases or offers to sell or lease any consumer goods, consumer realty, or consumer
6 services to disclose certain information regarding contract renewal in a certain
7 manner; requiring a certain person who sells or leases or offers to sell or lease any
8 consumer goods, consumer realty, or consumer services to provide a certain ~~written~~
9 ~~notice regarding contract renewal within a certain period of time; requiring a certain~~
10 ~~written notice to disclose certain information in a certain manner; prohibiting a~~
11 ~~person from charging a certain fee or penalty or requiring a certain payment under~~
12 ~~certain circumstances; providing that any certain consumer goods or consumer~~
13 ~~services are deemed an unconditional gift to a consumer under certain~~
14 ~~circumstances; means for a consumer to cancel a consumer contract; making a~~
15 certain violation of this Act an unfair or deceptive trade practice under the Maryland
16 Consumer Protection Act and subject to certain enforcement and penalty provisions,
17 except under certain circumstances; defining certain terms; and generally relating
18 to the renewal of consumer contracts for consumer goods, consumer realty, and
19 consumer services.

20 BY adding to

21 Article – Commercial Law

22 Section 14–1326

23 Annotated Code of Maryland

24 (2013 Replacement Volume and 2017 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
2 That the Laws of Maryland read as follows:

3 Article – Commercial Law

4 14-1326.

5 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
6 INDICATED.

7 (2) “CONSUMER” HAS THE MEANING STATED IN § 13-101 OF THIS
8 ARTICLE.

9 (3) “CONSUMER CONTRACT” MEANS AN AGREEMENT FOR THE
10 PURCHASE OF CONSUMER GOODS, CONSUMER REALTY, OR CONSUMER SERVICES
11 BETWEEN A PERSON AND A CONSUMER WHO RESIDES IN THE STATE.

12 (4) “CONSUMER GOODS” HAS THE MEANING STATED IN § 13-101 OF
13 THIS ARTICLE.

14 (5) “CONSUMER SERVICES” HAS THE MEANING STATED IN § 13-101
15 OF THIS ARTICLE.

16 ~~(B) A CONSUMER CONTRACT MAY NOT CONTAIN A RENEWAL TERM THAT
17 EXCEEDS 12 MONTHS UNLESS THE CONSUMER:~~

18 ~~(1) AFFIRMATIVELY CONSENTS TO A LONGER RENEWAL TERM AT THE
19 TIME THE CONSUMER AGREES TO THE INITIAL CONTRACT; AND~~

20 ~~(2) PROVIDES THE CONSENT IN WRITING.~~

21 ~~(C) (1) THIS SUBSECTION APPLIES TO ANY PERSON THAT SELLS OR
22 LEASES OR OFFERS TO SELL OR LEASE ANY CONSUMER GOODS, CONSUMER REALTY,
23 OR CONSUMER SERVICES TO A CONSUMER UNDER A CONSUMER CONTRACT THAT
24 AUTOMATICALLY RENEWS.~~

25 ~~(2) A PERSON SHALL CLEARLY AND CONSPICUOUSLY DISCLOSE IN A
26 CONSUMER CONTRACT THAT A CONTRACT WILL AUTOMATICALLY RENEW UNLESS
27 THE CONSUMER CANCELS THE CONTRACT.~~

28 ~~(3) THE DISCLOSURE REQUIRED UNDER PARAGRAPH (2) OF THIS
29 SUBSECTION SHALL:~~

1 ~~(I) INCLUDE THE PROCEDURES FOR CANCELING THE~~
2 ~~CONTRACT;~~

3 ~~(II) BE A SEPARATE PROVISION OF THE CONTRACT; AND~~

4 ~~(III) BE INITIALED BY THE CONSUMER.~~

5 ~~(D) (1) THIS SUBSECTION APPLIES TO ANY PERSON THAT SELLS OR~~
6 ~~LEASES OR OFFERS TO SELL OR LEASE ANY CONSUMER GOODS, CONSUMER REALTY,~~
7 ~~OR CONSUMER SERVICES TO A CONSUMER UNDER A CONSUMER CONTRACT THAT:~~

8 ~~(I) HAS AN INITIAL CONTRACT TERM OF AT LEAST 12 MONTHS;~~
9 ~~AND~~

10 ~~(II) AUTOMATICALLY RENEWS FOR A TERM THAT EXCEEDS 1~~
11 ~~MONTH UNLESS THE CONSUMER CANCELS THE CONTRACT.~~

12 ~~(2) A PERSON SHALL PROVIDE WRITTEN NOTICE TO A CONSUMER OF~~
13 ~~THE AUTOMATIC RENEWAL OF A CONTRACT NOT LESS THAN 30 DAYS AND NOT MORE~~
14 ~~THAN 60 DAYS BEFORE THE CONSUMER MUST CANCEL THE CONTRACT TO PREVENT~~
15 ~~CONTRACT RENEWAL.~~

16 ~~(3) THE REQUIRED NOTICE UNDER PARAGRAPH (2) OF THIS~~
17 ~~SUBSECTION SHALL DISCLOSE CLEARLY AND CONSPICUOUSLY:~~

18 ~~(I) THAT THE CONSUMER CONTRACT WILL AUTOMATICALLY~~
19 ~~RENEW UNLESS THE CONSUMER CANCELS THE CONTRACT;~~

20 ~~(II) THE DATE BY WHICH THE CONSUMER MUST CANCEL THE~~
21 ~~CONSUMER CONTRACT TO PREVENT THE CONTRACT FROM RENEWING; AND~~

22 ~~(III) DETAILED PROCEDURES FOR CANCELING THE CONTRACT,~~
23 ~~INCLUDING A TOLL FREE TELEPHONE NUMBER, MAILING ADDRESS, OR WEBSITE~~
24 ~~ADDRESS THAT THE CONSUMER MAY USE TO CANCEL THE CONTRACT.~~

25 ~~(E) A PERSON MAY NOT CHARGE ANY FEE OR PENALTY TO A CONSUMER OR~~
26 ~~REQUIRE ANY OTHER PAYMENT FROM A CONSUMER TO CANCEL A CONSUMER~~
27 ~~CONTRACT UNDER THIS SECTION UNLESS:~~

28 ~~(1) THE PERSON HAS COMPLIED WITH THE PROVISIONS OF THIS~~
29 ~~SECTION; AND~~

30 ~~(2) THE CONSUMER HAS FAILED TO CANCEL THE CONSUMER~~
31 ~~CONTRACT WITHIN 60 DAYS AFTER THE CANCELLATION DEADLINE.~~

1 ~~(F) ANY CONSUMER GOODS OR CONSUMER SERVICES SHALL BE DEEMED AN~~
2 ~~UNCONDITIONAL GIFT TO A CONSUMER IF:~~

3 ~~(1) A PERSON PROVIDES THE CONSUMER GOODS OR CONSUMER~~
4 ~~SERVICES TO A CONSUMER UNDER A CONSUMER CONTRACT; AND~~

5 ~~(2) THE PERSON HAS FAILED TO COMPLY WITH THE PROVISIONS OF~~
6 ~~THIS SECTION.~~

7 (B) THIS SECTION APPLIES TO ANY PERSON THAT SELLS OR LEASES OR
8 OFFERS TO SELL OR LEASE ANY CONSUMER GOODS, CONSUMER REALTY, OR
9 CONSUMER SERVICES TO A CONSUMER UNDER A CONSUMER CONTRACT THAT
10 AUTOMATICALLY RENEWS.

11 (C) A CONSUMER CONTRACT MAY NOT CONTAIN A RENEWAL TERM UNLESS:

12 (1) (i) THE CONSUMER CONTRACT CLEARLY AND CONSPICUOUSLY
13 DISCLOSES THAT THE CONSUMER CONTRACT WILL AUTOMATICALLY RENEW UNLESS
14 THE CONSUMER CANCELS THE CONTRACT; AND

15 (ii) IF THE CONSUMER CONTRACT IS A VERBAL CONTRACT, THE
16 CONSUMER CONTRACT DISCLOSES THE RENEWAL TERM CLOSE IN TIME TO THE
17 REQUEST FOR CONSENT TO THE CONSUMER CONTRACT; AND

18 (2) THE CONSUMER AFFIRMATIVELY CONSENTS TO THE RENEWAL
19 TERM BEFORE THE CONSUMER IS CHARGED A FEE UNDER THE CONTRACT.

20 (D) THE DISCLOSURE REQUIRED UNDER SUBSECTION (C) OF THIS SECTION
21 SHALL INCLUDE:

22 (1) THE AUTOMATIC RENEWAL OFFER TERMS;

23 (2) THE CANCELLATION POLICY;

24 (3) THE PROCEDURES FOR CANCELING THE CONTRACT; AND

25 (4) IF THE CONSUMER CONTRACT INCLUDES A FREE TRIAL,
26 PROCEDURES FOR CANCELING THE CONTRACT BEFORE THE CONSUMER IS
27 CHARGED A FEE.

28 (E) IF A PERSON SELLS OR LEASES OR OFFERS TO SELL OR LEASE ANY
29 CONSUMER GOODS, CONSUMER REALTY, OR CONSUMER SERVICES TO A CONSUMER
30 UNDER A CONSUMER CONTRACT THAT AUTOMATICALLY RENEWS, THE PERSON

1 SHALL PROVIDE A COST-EFFECTIVE, TIMELY, AND WIDELY AVAILABLE MECHANISM
2 FOR CANCELING THE CONSUMER CONTRACT, INCLUDING:

3 (1) A TOLL-FREE TELEPHONE NUMBER;

4 (2) AN E-MAIL ADDRESS; OR

5 (3) A POSTAL ADDRESS.

6 (F) IF A RENEWAL TERM CONTAINED IN A CONSUMER CONTRACT IS
7 MATERIALLY CHANGED, THE PERSON SHALL:

8 (1) NOTIFY THE CONSUMER OF THE MATERIAL CHANGE IN A CLEAR
9 AND CONSPICUOUS MANNER; AND

10 (2) PROVIDE PROCEDURES FOR CANCELING THE CONTRACT.

11 (G) UNLESS THE PERSON ATTEMPTED IN GOOD FAITH TO COMPLY WITH
12 THIS SECTION, A VIOLATION OF THIS SECTION IS:

13 (1) AN UNFAIR OR DECEPTIVE TRADE PRACTICE WITHIN THE
14 MEANING OF TITLE 13 OF THIS ARTICLE; AND

15 (2) SUBJECT TO THE ENFORCEMENT AND PENALTY PROVISIONS
16 CONTAINED IN TITLE 13 OF THIS ARTICLE.

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
18 October 1, 2018.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.