

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 1372
Economic Matters

(Delegate Waldstreicher)

Finance

Consumer Protection - Consumer Contracts Renewal - Restrictions

This bill prohibits a “consumer contract” from containing a renewal term unless a specified disclosure is provided *and* the consumer affirmatively consents to the renewal term before the consumer is charged a fee under the contract. Unless the person attempted in good faith to comply, a violation of the bill is an unfair or deceptive trade practice under the Maryland Consumer Protection Act (MCPA), subject to MCPA’s civil and criminal penalty provisions.

Fiscal Summary

State Effect: The bill’s imposition of existing penalty provisions does not have a material impact on State finances or operations. The Office of the Attorney General, Consumer Protection Division, can handle the bill’s requirements with existing resources.

Local Effect: The bill’s imposition of existing penalty provisions does not have a material impact on local government finances or operations.

Small Business Effect: Minimal.

Analysis

Bill Summary: For purposes of the bill, the definitions of (1) consumer; (2) consumer goods; and (3) consumer services are the same as the definitions of those terms in MCPA. The bill defines a “consumer contract” as an agreement for the purchase of consumer goods, realty, or services between a person and a consumer who resides in the State.

Automatically Renewing Contracts

The bill prohibits a consumer contract from containing a renewal term unless (1) the contract clearly and conspicuously discloses that the contract will automatically renew unless the consumer cancels; (2) in the case of a verbal consumer contract, the contract discloses the renewal term close in time to the request for consent to the consumer contract; and (3) the consumer affirmatively consents to the renewal term before the consumer is charged a fee under the contract. The required disclosure must include the terms of automatic renewal, the cancellation policy, procedures for canceling the contract, and, if the contract includes a free trial, procedures for cancellation before the consumer is charged a fee.

An automatically renewing consumer contract must provide a cost-effective, timely, and widely available mechanism for canceling, including (1) a toll-free telephone number; (2) an email address; or (3) a postal address. In addition, if a renewal term is materially changed, the person must (1) notify the consumer of the change in a clear and conspicuous manner and (2) provide procedures for canceling the contract.

Current Law: Under MCPA, a “consumer” means an actual or prospective purchaser, lessee, or recipient of consumer goods, services, realty, or credit. “Consumer goods” and “consumer services” are, respectively, goods and services which are primarily for personal, household, family, or agricultural purposes. Consumer goods and services also include, respectively, goods and services which are purchased, rented, or leased by a fraternal, religious, civic, patriotic, educational, or charitable organization for the benefit of the members of the organization.

An unfair or deceptive trade practice under MCPA includes, among other acts, any false, falsely disparaging, or misleading oral or written statement, visual description, or other representation of any kind which has the capacity, tendency, or effect of deceiving or misleading consumers. The prohibition against engaging in any unfair or deceptive trade practice encompasses the offer for or actual sale, lease, rental, loan, or bailment of any consumer goods, consumer realty, or consumer services; the extension of consumer credit; the collection of consumer debt; or the offer for or actual purchase of consumer goods or consumer realty from a consumer by a merchant whose business includes paying off consumer debt in connection with the purchase of any consumer goods or consumer realty from a consumer.

The Consumer Protection Division is responsible for enforcing MCPA and investigating the complaints of aggrieved consumers. The division may attempt to conciliate the matter, issue a cease and desist order, or file a civil action in court. A merchant who violates MCPA is subject to a fine of up to \$1,000 for the first violation and up to \$5,000 for each subsequent violation. In addition to any civil penalties that may be imposed, any person

who violates MCPA is guilty of a misdemeanor and, on conviction, is subject to a fine of up to \$1,000 and/or imprisonment for up to one year.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Office of the Attorney General (Consumer Protection Division);
Department of Legislative Services

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