

## **BILL ANALYSIS**

Senate Research Center

H.B. 533  
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Business & Commerce  
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Engrossed

### **AUTHOR'S/SPONSOR'S STATEMENT OF INTENT**

Many businesses use consumer contracts that renew automatically for an extended period of time after the expiration of the initial contract term. Often times these businesses lure customers into contracts by offering enticing introductory offers. Most require written notice of cancellation during some specific period prior to the end of the current contract term. If the consumer does not cancel exactly as provided, the consumer is stuck with the renewed contract for periods of one year or longer.

H.B. 533 modifies certain service and subscription contracts to require notification to the consumer before an automatic renewal. If the business fails to provide such notice, they can be penalized for failure to do so.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Title 4, Business & Commerce Code, by adding Chapter 48, as follows:

#### **CHAPTER 48. AUTOMATIC RENEWAL OF CONTRACTS**

Sec. 48.001. APPLICABILITY. (a) Provides that this chapter applies only to the renewal of a contract if certain conditions exist.

(b) Provides that this chapter does not apply to a contract with certain entities.

Sec. 48.002. DEFINITIONS. Defines "automatic renewal clause," "consumer," and "seller."

Sec. 48.003. REQUIREMENTS FOR AUTOMATIC RENEWAL. (a) Requires the seller, if a contract between a seller and a consumer contains an automatic renewal clause to take certain actions.

(b) Requires written notice provided under Subsection (a)(2) to clearly and conspicuously disclose certain information.

(c) Authorizes a seller to opt to send to a consumer written notice under Subsection (a)(2) by mail, certified mail, or personal service, or by including a statement in an invoice as provided by Subsection (d). Provides that a notice that is mailed is considered given on the date the notice is received.

(d) Required notice included in an invoice to state specific language in red ink or in boldfaced type large enough to be easily noticed.

Sec. 48.004. CONSUMER'S RIGHT TO CANCEL. (a) Authorizes a consumer to cancel the automatic renewal of a contract at any time before the beginning of the automatic renewal period, at no cost to the consumer, by following the procedure set out in the disclosure and notice provided under Section 48.003.

(b) Authorizes the consumer, if the seller fails to provide either the disclosure under Section 48.003(a)(1), if required, or the notice required by Section 48.003(a)(2), to cancel the automatic renewal by any reasonable means at any time, at no cost to the consumer.

(c) Requires the seller, if a consumer cancels the automatic renewal as provided by this section, to cancel the automatic renewal with no additional cost to the consumer.

Sec. 48.005. DECEPTIVE TRADE PRACTICE. (a) Provides that a violation of this chapter is a false, misleading, or deceptive act or practice as defined by Section 17.46(b) (Deceptive Trade Practices), and any remedy under Subchapter E (Deceptive Trade Practices and Consumer Protection), Chapter 17, is available for a violation of this chapter, except as provided by Subsection (b).

(b) Provides that a violation of this chapter is not a false, misleading, or deceptive act or practice if the seller can demonstrate that certain conditions exist.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2005.