

House Bill 529 (RULES COMMITTEE SUBSTITUTE)

By: Representatives Barrett of the 24th, Efstration of the 104th, Holcomb of the 101st, Gaines of the 120th, Camp of the 135th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 13 of the Official Code of Georgia Annotated, relating to contracts, so as to
2 provide consumers with the option of having service contracts that contain automatic renewal
3 provisions terminate after their specified period rather than being subject to the automatic
4 renewal provision; to provide requirements relating to the exercise of such option; to revise
5 the application of notice and disclosure requirements relating to automatic renewals in
6 service contracts; to revise exceptions; to amend Title 10 of the Official Code of Georgia
7 Annotated, relating to commerce and trade, so as to revise the application of requirements
8 relating to online automatic renewals and continuous service offers; to revise exceptions; to
9 provide for construction; to provide for definitions; to provide for related matters; to provide
10 for an effective date and applicability; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **PART I**
13 **SECTION 1-1.**

14 Title 13 of the Official Code of Georgia Annotated, relating to contracts, is amended by
15 revising Chapter 12, relating to automatic renewal provisions, as follows:

H. B. 529 (SUB)

16 "CHAPTER 12

17 13-12-1.

18 As used in this chapter, the term:

19 (1) 'Automatic renewal provision' means a provision under which a service contract is
 20 renewed for a specified period of more than one month ~~if the renewal causes the service~~
 21 ~~contract to be in effect more than six months after the day of the initiation of the service~~
 22 ~~contract. Such renewal is effective unless the consumer gives notice to the seller of the~~
 23 ~~consumer's intention to terminate the service contract.~~

24 (2) 'Consumer' means a natural person or a nonprofit organization exempt from taxation
 25 under Section 501(c)(3) of the Internal Revenue Code of 1986 receiving service,
 26 maintenance, or repair benefits under a service contract. ~~Such~~ The term does not include
 27 a natural person engaged in business or employed by or otherwise acting on behalf of a
 28 governmental entity if the person enters into the service contract as part of or ancillary
 29 to the person's business activities or on behalf of the business or governmental entity.

30 (3) 'Seller' means any person, firm, partnership, association, or corporation engaged in
 31 commerce that sells, leases, or offers to sell or lease any service to a consumer pursuant
 32 to a service contract.

33 (4) 'Service contract' means a written contract for the performance of services for a
 34 specified period of time.

35 13-12-2.

36 ~~(a) No Any seller that sells, leases, or offers to sell or lease any service to a consumer~~
 37 ~~pursuant to shall enter into~~ a service contract with a consumer that has an automatic
 38 renewal provision unless such seller first:

39 (1) Discloses shall disclose the automatic renewal provision clearly and conspicuously
 40 in the contract or contract offer; and

41 (2) Gives such consumer the option of having the service contract terminate after its
42 specified period rather than being subject to the automatic renewal provision.

43 (b) Any option to have a service contract terminate after its specified period rather than
44 being subject to an automatic renewal provision given by a seller pursuant to paragraph (2)
45 of subsection (a) of this Code section that is exercised by a consumer shall, at the seller's
46 sole cost and expense, be incorporated into the service contract or otherwise memorialized
47 in a writing that is signed by both the seller and consumer and shall render any automatic
48 renewal provision in the service contract void and unenforceable.

49 13-12-3.

50 (a) Any seller that sells, leases, or offers to sell or lease any service to a consumer pursuant
51 to a service contract for a specified period of 12 months or more and that automatically
52 renews for a specified period of more than one month, unless the consumer cancels the
53 contract, shall provide the consumer with written or electronic notification of the automatic
54 renewal provision. Notification shall be provided to the consumer no less than 30 days or
55 no more than 60 days before the cancellation deadline pursuant to the automatic renewal
56 provision. Such notification shall disclose clearly and conspicuously:

57 (1) That unless the consumer cancels the contract, the contract will automatically renew;
58 and

59 (2) The methods by which the consumer may obtain details of the automatic renewal
60 provision and cancellation procedure, including contacting the seller at a specified
61 telephone number or address, referring to the contract, or any other method.

62 (b) For any contract for service to a consumer that automatically renews for a specified
63 period of more than ~~24 months~~ one year, the seller shall, in addition to providing the
64 notification required under subsection (a) of this Code section, obtain the following for the
65 automatic renewal provision of such contract to be enforceable:

- 66 (1) Written or electronic acknowledgment from the consumer of receipt of the
 67 notification required under subsection (a) of this Code section; and
 68 (2) An affirmative written or electronic response that the consumer does not intend to
 69 terminate the service contract.

70 13-12-4.

71 This chapter shall not apply to:

- 72 (1) A financial institution listed in subparagraphs (A) through (E) of paragraph (6) of
 73 Code Section 7-1-911 or any subsidiary or affiliate of such institution as provided in
 74 Chapter 1 or 2 of Title 7 or any depository institution as defined in 12 U.S.C. Section
 75 1813(c)(2);
 76 (2) A bank holding company, as such term is defined in Code Section 7-1-605 foreign
 77 bank maintaining a branch or agency licensed under the laws of any state of the United
 78 States;
 79 (3) Any subsidiary or affiliate of an entity provided in paragraph (1) or (2) of this Code
 80 section;
 81 (4) Any electric supplier, as such term is defined in Code Section 46-3-3 utility as
 82 provided in Chapter 3 of Title 46;
 83 (4) Any service provided by a business or its affiliate when either the business or its
 84 affiliate is regulated by the Public Service Commission, the Department of Agriculture,
 85 the Federal Communications Commission, or the Federal Energy Regulatory
 86 Commission;
 87 (5) Any service provided by a business or its affiliate when either the business or its
 88 affiliate is doing business as a franchise issued by a political subdivision of this state;
 89 (6) Any entity regulated by the Office of Insurance and Safety Fire Commissioner;
 90 (5)(7) Any entity regulated pursuant to Chapter 45 of Title 43; or

91 ~~(6)(8)~~ Any county, municipal corporation, authority, or local government or governing
92 body.

93 13-12-5.

94 A violation of any provision of this chapter ~~renders the~~ shall render any automatic renewal
95 provision ~~of~~ in a service contract void and unenforceable."

96 **PART II**

97 **SECTION 2-1.**

98 Title 10 of the Official Code of Georgia Annotated, relating to commerce and trade, is
99 amended by revising Part 8 of Article 15 of Chapter 1, the "Georgia Online Automatic
100 Renewal Transparency Act," as follows:

101 "Part 8

102 10-1-439.5.

103 This part shall be known and may be cited as the 'Georgia Online Automatic Renewal
104 Transparency Act.'

105 10-1-439.6.

106 (a) The purpose of this part shall be to stop the practice of creating unnecessary barriers
107 for customers who wish to cancel automatic renewal or continuous service subscriptions
108 online, particularly when such subscriptions are offered online. It is the intent of the
109 General Assembly that such practice be swiftly stopped, and this part shall be liberally
110 construed and applied to promote its underlying purposes and policies.

111 (b) It is the further intent of the General Assembly that this part be interpreted and
112 construed consistently with interpretations given by the Federal Trade Commission in the
113 federal courts pursuant to Section 5(a)(1) of the Federal Trade Commission Act (15 U.S.C.
114 Section 45(a)(1)), as from time to time amended.

115 10-1-439.7.

116 As used in this part, the term:

117 (1) 'Automatic renewal' means a plan or arrangement in which an online paid
118 subscription or purchasing agreement is automatically renewed at the end of a definite
119 term of more than ~~31 days~~ one month for a subsequent definite term of more than ~~31 days~~
120 one month.

121 (2) 'Consumer' means a natural person residing in this state who enters into a transaction
122 primarily for personal, family, or household purposes.

123 (3) 'Continuous service' means a plan or arrangement for a paid definite term of more
124 than ~~31 days~~ one month renewing for a subsequent definite term of more than ~~31 days~~
125 one month in which an online subscription or purchasing agreement continues until the
126 consumer cancels such service.

127 (4) 'Offer terms' means the following clear and conspicuous disclosures to the consumer:

128 (A) The description of the cancellation policy as applicable to the automatic renewal
129 offer or arrangement;

130 (B) The recurring charges to be charged to the consumer's credit or debit card or
131 payment account with a third-party ~~payment account~~ as part of the online automatic
132 renewal plan or arrangement, and that the amount of such charge may change, and the
133 amount to which such charge will change, if known;

134 (C) The length of the automatic renewal term or an indication that the service is
135 continuous, unless the length of the term is chosen by the consumer; and

136 (D) The minimum purchase obligation, if any.

137 10-1-439.8.

138 (a) Notwithstanding any law to the contrary, any business that allows a consumer to accept
139 an automatic renewal or continuous service offer online shall allow a consumer to cancel
140 the automatic renewal or continuous service online. The business shall provide a method
141 of cancellation that is available online, which ~~may~~ shall include:

142 (1) A clear and conspicuous link to a public website or other online cancellation service;
143 ~~or~~ and

144 (2) A cancellation email formatted and provided by the business that a consumer can
145 send to the business without additional information.

146 (b) Notwithstanding subsection (a) of this Code section, a business that allows a consumer
147 to accept an automatic renewal or continuous service offer online may require a consumer
148 to enter account information or otherwise authenticate their account online before online
149 cancellation of the automatic renewal or continuous service if the consumer has an account
150 with the business. A consumer who is unwilling or unable to enter account information or
151 otherwise authenticate online before online cancellation of the automatic renewal or
152 continuous service shall not be precluded from cancelling the automatic renewal or
153 continuous service offline using an alternate method pursuant to subsection (c) of this Code
154 section.

155 (c) A business that allows a consumer to accept an automatic renewal or continuous
156 service offer online shall provide a toll-free telephone number, email address, postal
157 address if the seller directly bills the consumer, or another cost-effective, timely, and
158 easy-to-use mechanism for cancellation that shall be described in an acknowledgment that
159 includes the automatic renewal offer terms or continuous service offer terms, cancellation
160 policy, and information regarding how to cancel.

161 (d) The requirements of this Code section apply to the automatic renewal terms and
162 continuous service terms of the contract entered into online, and the remaining provisions
163 of the contract shall continue to be governed by all applicable laws and regulations.

164 10-1-439.9.

165 (a) It shall be unlawful in this state for any business that allows a consumer to accept an
166 automatic renewal or continuous service offer online to:

167 (1) Fail to present the automatic renewal offer terms or continuous service offer terms
168 in a clear and conspicuous manner before the subscription or purchasing agreement is
169 fulfilled and in visual proximity, or in the case of an offer conveyed by voice, in temporal
170 proximity, to the request for consumer consent to the offer;

171 (2) Charge the consumer's credit or debit card, or the consumer's third-party payment
172 account for an automatic renewal or continuous service without first obtaining the
173 consumer's consent to the agreement containing such automatic renewal offer terms or
174 continuous service offer terms;

175 (3) Fail to provide an acknowledgment that includes the automatic renewal offer terms
176 or continuous service offer terms. Such acknowledgment may be from the business's own
177 public website or it may be provided via a link to a separate resource that provides
178 instructions for unique platforms and services or other means that provide such offer
179 terms in a manner easily retained by the consumer; or

180 (4) Fail to provide a consumer with notice pursuant to subsection (b) of this Code
181 section.

182 (b) A business that allows a consumer to accept an automatic renewal or continuous
183 service offer online shall provide the consumer with a notice prior to or within three days
184 after charging the consumer's credit or debit card or payment account with a third party,
185 provided that the consumer has not opted out of receiving such notice. Such notice shall
186 clearly and conspicuously state:

187 (1) That the automatic renewal or continuous service shall automatically renew unless
188 it is canceled by the consumer;

189 (2) The length and any additional terms of the renewal period;

190 (3) If sent electronically, the notice shall include either a link or another reasonably
191 accessible electronic method that directs the consumer to the cancellation process; and

192 (4) Contact information for the business.

193 (c) In the case of a material change in the terms of the online automatic renewal offer or
194 continuous service offer that has been accepted by a consumer in this state, a business shall
195 provide the consumer with a clear and conspicuous notice of the material change and shall
196 provide information to the consumer regarding how to cancel such automatic renewal offer
197 or continuous service offer in a manner that is easily retained by the consumer.

198 10-1-439.10.

199 When a business that allows a consumer to accept an automatic renewal or continuous
200 service offer online sends any goods, wares, merchandise, or products to a consumer under
201 an automatic renewal of purchase or a continuous service agreement, without first
202 obtaining the consumer's consent pursuant to paragraph (2) of subsection (a) of Code
203 Section 10-1-439.9, such goods, wares, merchandise, or products shall for all purposes be
204 deemed an unconditional gift to the consumer, who may use or dispose of such goods,
205 wares, merchandise, and products in any manner he or she sees fit without obligation to the
206 business, including, but not limited to, bearing the cost of or responsibility for shipping any
207 goods, wares, merchandise, or products to the business.

208 10-1-439.11.

209 The requirements of this part shall apply only prior to the completion of the initial order
210 for the online automatic renewal or continuous service; provided, however, that an
211 acknowledgment that includes the automatic renewal offer terms or continuous service
212 offer terms, cancellation policy, and information regarding how to cancel, and the notice
213 required pursuant to subsection (b) of Code Section 10-1-439.9 may be fulfilled after the
214 completion of the initial order.

215 10-1-439.12.

216 The following are exempt from the requirements of this part:

217 (1) Any service provided by a business or its affiliate when either the business or its
218 affiliate is doing business as a franchise issued by a political subdivision of this state;

219 (2) Any service provided by a business or its affiliate when either the business or its
220 affiliate is regulated by the Georgia Public Service Commission, the Georgia Department
221 of Agriculture, the Federal Communications Commission, or the Federal Energy
222 Regulatory Commission;

223 (3) Any entity regulated by the Office of Insurance and Safety Fire Commissioner;

224 (4) Any financial institution ~~as defined in Code Section 7-1-4~~ listed in subparagraphs (A)
225 through (E) of paragraph (6) of Code Section 7-1-911 or any subsidiary or affiliate of
226 such institution, or any bank holding company as defined in Code Section 7-1-605; and

227 (5) ~~Any foreign bank maintaining a branch or agency licensed under federal law or under~~
228 ~~the laws of any state of the United States~~ Any electric supplier, as such term is defined
229 in Code Section 46-3-3.

230 10-1-439.13.

231 (a) The Attorney General shall be authorized to bring an action under this part to obtain
232 a temporary or permanent injunction prohibiting the use of any method, act, or practice in
233 violation of this part and to obtain restitution for consumers who are residents of this state
234 and who incurred a loss of money or property as the direct result of a violation of this part.

235 (b) If a business that allows a consumer to accept an automatic renewal or continuous
236 service offer online complies with the provisions of this part in good faith, it shall not be
237 subject to civil penalty or damages.

238 (c) There shall be no private right of action for a violation of this part, nor shall a violation
239 of this part serve as the basis for a private right of action under any other provision of law.

240 (d) If any provision of this part or its application to any person or circumstance is held
241 invalid, such invalidity shall not affect other provisions or applications of this part that can
242 be given effect without the invalid provision or application. To this end, the provisions of
243 this part are severable.

244 10-1-439.14.

245 Nothing in this part shall be construed as impairing the application of the provisions of
246 Chapter 12 of Title 13 to service contracts, as such term is defined in Code Section
247 13-12-1. To the extent any provision of this part is incompatible, inconsistent, or
248 otherwise in conflict with the provisions of Chapter 12 of Title 13, the provisions of
249 Chapter 12 of Title 13 shall supersede any such incompatible, inconsistent, or otherwise
250 conflicting provisions of this part."

251

PART III

252

SECTION 3-1.

253 This Act shall become effective on December 31, 2025, and shall apply to contracts entered
254 into on or after such date.

255

SECTION 3-2.

256 All laws and parts of laws in conflict with this Act are repealed.