

Senate File 2082 - Introduced

SENATE FILE 2082

BY DICKEY

A BILL FOR

1 An Act prohibiting negative option billing practices in
2 subscription contracts and including applicability
3 provisions.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 555.1 Definitions.

2 As used in this chapter, unless the context otherwise
3 requires:

4 1. "*Customer*" means a resident of this state who has entered
5 into a contract for a subscription for goods and services.

6 2. "*Negative option billing*" means a contract for a
7 subscription for goods or services which is automatically
8 renewed unless notice is provided by a customer to a seller to
9 terminate the contract.

10 3. "*Seller*" means a person who sells goods or services to
11 a customer.

12 Sec. 2. NEW SECTION. 555.2 Negative option billing —
13 prohibition.

14 1. A contract for a subscription of goods or services shall
15 not contain a negative option billing provision. Prior to
16 renewal of a contract for a subscription for goods or services,
17 the seller shall provide a customer written notice complying
18 with the requirements of subsection 2 that informs the customer
19 that the contract shall terminate on a date specified in the
20 contract and that renewal is conditioned upon receipt from the
21 customer of acceptance of the subscription contract renewal.

22 2. Notice provided pursuant to subsection 1 shall be in
23 writing in clear and understandable language printed in an
24 easy-to-read type, size, and style, and shall be delivered by
25 regular mail, sent through electronic mail, or prominently
26 displayed on the first page of a monthly statement, and
27 supplied at least thirty days prior to the termination date
28 specified in the contract. The notice shall also provide
29 clearly understandable instructions for notification by the
30 customer to the seller of acceptance of contract renewal.

31 3. A seller shall not be held liable for cancellation of
32 a subscription contract if no notification of acceptance was
33 received from a customer. A customer may provide evidence that
34 the customer sent notification of acceptance of a contract
35 renewal. Upon satisfactory evidence that such notification

1 was sent by the customer but not received by the seller, a
2 seller shall provide the customer with a contract renewal under
3 the original terms and conditions as if notification had been
4 received by the seller in a timely manner.

5 Sec. 3. NEW SECTION. 555.3 Penalties.

6 A seller who violates a provision of this chapter shall
7 return to the customer the amount charged and collected by the
8 seller plus ten percent of the amount charged and collected
9 from the final unauthorized billing period. The seller shall
10 have thirty days from collecting the unauthorized amount to
11 return the unauthorized amount collected back to the customer.

12 Sec. 4. APPLICABILITY. This Act applies to contracts for
13 subscription goods or services entered into on or after the
14 effective date of this Act.

15 EXPLANATION

16 The inclusion of this explanation does not constitute agreement with
17 the explanation's substance by the members of the general assembly.

18 This bill prohibits the practice of negative option billing.

19 The bill defines "negative option billing" to mean a
20 contract for a subscription for goods or services which is
21 automatically renewed unless notice is provided by a customer
22 to a seller to terminate the contract.

23 The bill provides that a seller must provide customers
24 with a clear and readable notice, either through writing,
25 mail, or on a monthly statement at least 30 days before the
26 end of the contract, of the process by which a customer may
27 renew a subscription to the seller. If the seller does not
28 receive a notification from the customer that the customer
29 wishes to renew the subscription, the seller must not renew the
30 subscription service.

31 The bill provides that if a seller cancels a subscription
32 contract after notification of acceptance was sent but not
33 received, the seller must reinstate the subscription contract.

34 The bill provides that a violation of the bill's provisions
35 shall result in the seller refunding a customer the

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1 unauthorized charge amount plus a 10 percent penalty within 30
2 days of the charge.

3 The bill applies to contracts for subscription goods or
4 services entered into on or after the effective date of the
5 bill.