

**2009 DRAFTING REQUEST**

**Senate Substitute Amendment (SSA-SB190)**

Received: **08/11/2009**

Received By: **csundber**

Wanted: **As time permits**

Identical to LRB:

For: **Robert Wirch (608) 267-8979**

By/Representing: **Mary Matthias**

This file may be shown to any legislator: **NO**

Drafter: **csundber**

May Contact:

Addl. Drafters:

Subject: **Trade Regulation - other**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Wirch@legis.wisconsin.gov**

Carbon copy (CC:) to: **christopher.sundberg@legis.wisconsin.gov**

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Change business contract definition, add trailers, exempt government contracts, other miscellaneous changes

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**Instructions:**

See attached

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	csundber 08/17/2009	nmatzke 08/20/2009		_____			
/1			rschlue 08/20/2009	_____	cduerst 08/20/2009	cduerst 08/20/2009	

FE Sent For:

<END>

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See attached

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/?	csundber	1 nwm 8/17					

FE Sent For: <END>

**Sundberg, Christopher**

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**From:** Matthias, Mary  
**Sent:** Tuesday, August 11, 2009 11:13 AM  
**To:** Sundberg, Christopher  
**Cc:** Tierney, Michael; Shannon, Pam  
**Subject:** SB 190 sub  
**Attachments:** SB 190 SUB (4).doc

Chris-

Senator Wirch would like a sub to SB 190 drafted that incorporates all of the items listed as "agreed-upon" in the attached document.

Please feel free to contact me or Pam Shannon (266-2680) if you have any questions.

Thanks-

*Mary Matthias*

Senior Staff Attorney  
Wisconsin Legislative Council Staff  
Ph.(608)266-0932;Fax (608)266-3830

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**From:** Tierney, Michael  
**Sent:** Tuesday, August 11, 2009 10:53 AM  
**To:** Matthias, Mary  
**Subject:** RE: SB 190 changes.doc

Hi Mary --

The memo looks great.

Mike

---

**From:** Matthias, Mary  
**Sent:** Thursday, August 06, 2009 9:59 AM  
**To:** Tierney, Michael  
**Cc:** Shannon, Pam  
**Subject:** SB 190 changes.doc

Mike--

Here's my attempt to summarize the discussion we had about SB 190 on Monday.

You may want to run this past Mike Metz and Gary Antoniewicz to make sure it is accurate.

If you are OK with it, let me know and I will send the agreed-upon items to the drafter and ask

08/11/2009

him to prepare a sub with those changes.

Thanks-

Mary

Summary of August 3, 2009 discussion regarding suggested ELFA (Equipment Leasing and Finance Association) changes to 2009 SB 190, relating to renewals and extensions of business contracts, between Mike Tierney, Mike Metz, Gary Antoniewicz, Pam Shannon and Mary Matthias.

Prepared for Mike Tierney on August 6, 2009, by Mary Matthias, Leg. Council.

Agreed-upon changes to the bill

- ✓ 1. Amend the definition of "business contract", as it applies to equipment, to specify that it includes only business equipment that is used primarily in Wisconsin. Specify that if any of the equipment included in a contract is used primarily in Wisconsin, the entire contract is subject to the bills provisions. (Provisions pertaining to services should not be amended.)
- ~~X~~ 2. Page 3, line 4. Amend the definition of vehicle to clarify that it applies to any titled vehicle, including trailers.
- ✓ 3. Exempt from the provisions of the bill, all contracts made with a federal, state or local government entity.
- ✓ 4. Page 4, line 12, change "30 days" to "one month".

Note: Section 990.01 (intro.) Construction of laws; words and phrases. In the construction of Wisconsin laws the words and phrases which follow shall be construed as indicated unless such construction would produce a result inconsistent with the manifest intent of the legislature: (21) Month. "Month" means a calendar month unless otherwise expressed.

- ✓ 5. Provide that if a customer provides, in writing, that they want to renew a contract, the written evidence is an absolute defense to claims that the seller violated the notice or disclosure requirements of the bill. The written evidence must indicate that the buyer was aware of the terms under which the contract would be renewed or extended.
- ✓ 6. Page 5, line 25: change "45" to "60". This increases the length of time prior to the deadline for a customer to decline contract renewal or extension that a seller may provide required notice to the buyer.
- ✓ 7. Provide that a seller may provide the notice required under sub.(3) by a recognized overnight courier service if the contract allows the buyer to use this method of providing notice to the seller that the buyer declines renewal or extension. Also amend the bill to specify that the seller may use FAX or e-mail to provide notice (sub. (4)(e) and (f)) only if the contract allows the buyer to use these methods of providing notice to the seller that the buyer declines renewal or extension.

- ✓ 8. Specify that the disclosure requirements under sub. (2)(a) (that the seller either give the buyer a form at the time the customer enters into the contract or include the disclosures in the contract) do not apply in the case of contracts already in effect on the date of initial applicability and provide that these contracts may be renewed repeatedly without having to be rewritten to contain the disclosure language described in sub(2)(a)1.
- ✓ 9. Remedies—Specify that in sub (6), “attempts to enforce” means that, in a case in which subs. (3) and (4) apply and were not complied with, a seller refuses to terminate a contract when notified by a buyer that the buyer wishes to end the contract. If a seller, upon receiving notice that the buyer wishes to end the contract, agrees to immediately terminate the contract, the buyer is obligated to pay for any services or equipment already received under the contract, but is not obligated to pay for any services or equipment beyond that date, and no further remedy may be obtained by the buyer. If the seller refuses to terminate the contract, this is an “attempt to enforce” and the remedies set forth in the contract apply. Further, specify that the remedies set forth in the bill always apply in the case of a seller making any attempt to enforce a provision under sub. (5).

#### Items discussed and rejected

1. Page 3, line 2: Reduce the threshold for contracts exempted from the requirements of the bill from \$250,000 to \$50,000.
2. Modify the exemption in s. 134.49(1)(a)1 to eliminate the term “undetermined”.
3. The ELFA memo suggests: “Clarify what appears to be the intent in exemption 10 to include all leases that allow the customer to terminate an auto-renewal provision upon one month’s notice.” I don’t think that clarification is necessary because the first phrase of 134.49(1)(a)10 is controlling—ie., all the phrases following that clause modify it. In other words, subd. 10 applies only to “a contract for the lease or purchase of telecommunications service”.
4. The ELFA memo suggests the bill be amended to allow disclosure of an automatic renewal provision either by initialing the provision in the contract or signing a separate form, rather than requiring both. The bill already allows for either method to be used—see pg 4, line 23: . . .”the seller shall do *one* of the following” (emphasis added).
5. The ELFA memo suggests allowing a disclosure statement to “either state what the renewal rent would be or describe the increase in rent should there be one” if the contract were renewed. The bill already allows this. Section 134.49(2)(b) requires a disclosure to contain, among other things, “A statement indicating whether an increase in charges to the customer will apply upon an automatic renewal or extension.” This requirement would be met if a seller disclosed or “described” the amount of rent that would be charged in case of renewal.
6. Adding a severability clause—according to my notes, we did not reach a conclusion on this item. My notes simply say that this item is directed at the right of first refusal issue.

Maybe ELFA is concerned that if a contract contains a right of first refusal clause the entire contract could be found invalid. I don't think that is the correct interpretation, because on pg. 7, lines 4-6, the bill specifically states that the consequence of inclusion of this type of clause in a contract is that "A provision in a business contract that violates this subsection is void and unenforceable", not that the entire contract is void.

7. Initial applicability-no changes will be made. The drafter or Leg. Council will provide a drafters note or memo explaining in detail how the bill will apply to contracts already in place.

**Gary, Aaron**

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**From:** Matthias, Mary  
**Sent:** Wednesday, August 12, 2009 11:40 AM  
**To:** Gary, Aaron  
**Cc:** Shannon, Pam; Tierney, Michael; Sundberg, Christopher  
**Subject:** RE: sub to SB-190

Sounds good.

thanks!

**Mary Matthias**

Senior Staff Attorney  
Wisconsin Legislative Council Staff  
Ph.(608)266-0932;Fax (608)266-3830

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**From:** Gary, Aaron  
**Sent:** Wednesday, August 12, 2009 11:15 AM  
**To:** Matthias, Mary  
**Cc:** Shannon, Pam; Tierney, Michael; Sundberg, Christopher  
**Subject:** RE: sub to SB-190

Thanks Mary. This is similar to the initial language that was the subject of my e-mail attachment, and I'll refer back to that re the problem with it. However, I think it is helpful in clarifying the intent and it seems that my proposed language below will achieve that intent. So I'll go ahead with this language unless I hear differently.

Thanks again. Aaron

Aaron R. Gary  
*Attorney, Legislative Reference Bureau*  
608.261.6926 (voice)  
608.264.6948 (fax)  
[aaron.gary@legis.state.wi.us](mailto:aaron.gary@legis.state.wi.us)

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**From:** Matthias, Mary  
**Sent:** Wednesday, August 12, 2009 11:02 AM  
**To:** Gary, Aaron  
**Cc:** Shannon, Pam; Tierney, Michael; Sundberg, Christopher  
**Subject:** RE: sub to SB-190

Aaron-

The memo we were working off – provided by the Equipment Leasing and Finance

08/12/2009

Association--reads as follows:

Amend the vehicle exemption to include vehicles titled under chapter 341 of the Wisconsin Statutes and/or registered under chapter 342 of the Wisconsin Statutes. This change would clarify that a lease of any titled vehicle (including trailers) would be exempt from the Bill's coverage.

This is what we are trying to achieve. Does that help or does that make it more confusing??

Mary

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**From:** Gary, Aaron  
**Sent:** Wednesday, August 12, 2009 10:51 AM  
**To:** Matthias, Mary  
**Cc:** Shannon, Pam; Tierney, Michael; Sundberg, Christopher  
**Subject:** sub to SB-190

Hi Mary,

I'm taking a look at a small piece of this draft (the part relating to the leased vehicle exception - p. 3, line 4 of SB-190).

During the drafting of SB-190, the drafting approach to this provision was discussed - I have attached the relevant page of the drafting file to this e-mail, if you're interested.

I am assuming that, in item 2. of the sub instructions, you mean vehicles titled by DOT. (I am unaware of whether/how vehicles such as ATVs, dirt bikes, snowmobiles, and other vehicles *not* under DOT's jurisdiction are titled, if at all.) DOT issues titles for most but not all trailers and semitrailers. DOT issues titles for the larger trailers and semitrailers operated as commercial motor vehicles. For smaller "recreational" trailers, DOT might or might not issue a title. Registration for these is generally optional, so DOT only issues a title if the owner/lessee decides to register it. DOT also would not issue a title for any size trailer (or other vehicle) if it is registered out-of-state (which comes into play with interstate carriers). Given the fact that the sub will limit the definition of "business contract" to business equipment used primarily in this state, I don't believe that trailers/vehicles registered out-of-state would come into play here.

So, in summary, would the following be consistent with the intent for created s. 134.49 (1) (a) 3. in the sub:

"3. A contract for the lease of a vehicle for which a certificate of title has been issued under ch. 342."

Thanks. Aaron

Aaron R. Gary  
*Attorney, Legislative Reference Bureau*  
608.261.6926 (voice)  
608.264.6948 (fax)  
aaron.gary@legis.state.wi.us

08/12/2009

**Gary, Aaron**

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**From:** Gary, Aaron  
**Sent:** Friday, March 20, 2009 10:44 AM  
**To:** Tierney, Michael  
**Cc:** Sundberg, Christopher  
**Subject:** RE: LRB 0915/2 amendment request

Hi Mike,

I'm looking at the first item below for Chris, and I just want to clarify what you want here. Vehicles are registered under ch. 341 and you can't register the vehicle unless it is titled, so I started to insert the language "... lease of vehicles registered under ch. 341", but I'm not sure that language will meet your intent.

As background: As I'm sure you know, motor vehicle leases to consumers for a period of 4 months or more are subject to fairly extensive regulation under ch. 429. Also under current law, the lessee (not the lessor) is required to register a vehicle under ch. 341 if the lease period is one year or more. Current law also provides that many smaller trailers are exempt from vehicle registration under ch. 341.

Since the item below is an exception to the "business contract" definition, drafting the exception too narrowly would mean that the "business contract" definition might cover more than you want it to. For example, the language above ("... lease of vehicles registered under ch. 341") would mean contracts for the lease of trailers weighing 3,000 pounds or less would be subject to the "business contract" provisions. Is this your intent? If not, do you want the exception to simply apply to all vehicles? Or do you want the exception to apply to all vehicles manufactured for on-highway operation?

Thanks for any additional guidance you can provide.

Aaron

Aaron R. Gary  
Attorney, Legislative Reference Bureau  
608.261.6926 (voice)  
608.264.6948 (fax)  
aaron.gary@legis.state.wi.us

*3/20/09 f/c of Mike  
wants exception to apply to all vehicles, whether registered or not, including off-road vehicles such as dirt bikes, ATVs, snowmobiles  
"any vehicle"*

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**From:** Tierney, Michael  
**Sent:** Thursday, March 19, 2009 1:56 PM  
**To:** Sundberg, Christopher  
**Subject:** LRB 0915/2 amendment request

Hi Chris –

Could you put together an amendment for LRB 0915/2?

On page 3 line 1 we would like to make this provision cover "a contract for the lease of vehicles that are titled under Chapter 341 and registered under Chapter 342". As currently worded only motor vehicles are covered and we would instead like to have motor vehicles and trailers, etc covered.

On page 6 after line 3, can we insert 3 additional ways to provide notice?

- (d) By sending a facsimile to the customer to the customer's last-known facsimile number.
- (e) By sending an email to the customer at the customer's last-known email address.
- (f) By regular US mail provided that the contract does NOT require the customer to notify the seller by certified mail of intent to cancel.

ln: 8/17/09 Wanted: Friday 8/21/09



State of Wisconsin  
2009 - 2010 LEGISLATURE

50097/1  
LRB-0915/4  
CTS:nwn:rs

SSA ?

To 2009 SENATE BILL 190

SAV

May 4, 2009 - Introduced by Senators WIRCH, LEHMAN, TAYLOR, HOLPERIN, LASSA and ERPENBACH, cosponsored by Representatives TURNER, HUBLER, TOWNSEND, VOS, KAUFERT, SPANBAUER, BIES, KESSLER, HILGENBERG and ZEPNICK. Referred to Committee on Small Business, Emergency Preparedness, Technical Colleges, and Consumer Protection.

1 AN ACT <sup>Regen.</sup> to create 134.49 of the statutes; relating to: renewals and extensions  
2 of business contracts.

**Analysis by the Legislative Reference Bureau**

Under current law, a landlord may not enforce an automatic renewal or extension clause in a residential lease unless the landlord provides advance written notice of the renewal or extension. This bill creates similar requirements for certain contracts for the lease of business equipment or for providing business services (business contracts), if the contracts have an initial term of more than one year. The bill exempts contracts for the lease or purchase of real property, certain contracts that require the customer to make minimum annual payments of \$250,000 or more, contracts for the lease of vehicles or medical equipment, certain energy and telecommunications contracts, and contracts that permit a customer to cancel an automatically renewed or extended contract period by giving notice up to 30 days in advance.

Under the bill, if a business contract provides that the contract will be automatically renewed or extended for an additional contract period of more than one month unless the customer declines renewal or extension, the seller must provide the customer with a form containing certain disclosures or include the disclosures in the contract and obtain the customer's initials. The disclosures include certain information regarding a renewal or extension, including the duration of an additional contract period, whether increased charges to the customer would apply, and the deadline for the customer to act to prevent an additional contract period.

**SENATE BILL 190**

Also under the bill, if a business contract provides that an automatic renewal or extension results in an additional contract period of more than one year, the seller must give the customer a reminder notice prior to renewal or extension. The reminder notice must contain specified information regarding a renewal or extension and generally must be provided by mail, by personal delivery, in a monthly invoice, by a facsimile, or by electronic mail. The bill also voids a business contract provision that requires a customer to permit the seller to match any offer the customer receives from, or makes to, another seller after the end of the contract's stated term (right to match provision).

If a seller fails to comply with the bill's disclosure or reminder notice requirements, the automatic renewal or extension provision is unenforceable and the contract terminates at the end of the current contract term. Also, if a seller fails to comply with the reminder notice requirements or attempts to enforce a right to match provision, the bill allows a customer to bring an action or counterclaim for damages. In such an action or counterclaim, a seller is not liable if: 1) the seller has established and implemented written procedures for complying with the reminder notice requirements and the prohibition against right to match provisions; 2) the seller's conduct was not willful or malicious; and 3) the seller refunds amounts the customer paid after the contract was renewed or extended.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           SECTION 1. 134.49 of the statutes is created to read:

2           **134.49 Renewals and extensions of business contracts. (1) DEFINITIONS.**

3           In this section:

*IF any of the business equipment is used primarily in this state*

4           (a) "Business contract" means a contract that is entered into for the lease of  
 5           business equipment or for providing business services, if the contract is for the direct  
 6           benefit of the end user of the business equipment or business services. "Business  
 7           contract" does not include any of the following: *but only*

8           1. A contract in which a customer agrees to purchase from a seller an  
 9           undetermined amount of business services or lease from the seller an undetermined  
 10          amount of business equipment, and agrees to pay the seller based on the amount of  
 11          business services received or business equipment leased, subject to a predetermined

**SENATE BILL 190**

1 minimum payment in a 12-month period specified in the contract, if the  
2 predetermined minimum payment is \$250,000 or more.

3 2. A contract for the lease or purchase of real property.

4 3. A contract for the lease of a vehicle.

*for which a certificate of  
title has been issued  
under ch. 342 ✓*

5 4. A contract for the lease of medical equipment.

6 5. A contract derived from a tariff issued by an energy utility, as defined in s.  
7 196.027 (1) (c).

8 6. A contract for the lease of equipment that is for personal, family, or household  
9 purposes.

10 7. A contract for the purchase of services that are for personal, family, or  
11 household purposes.

12 8. A contract for the lease or purchase of access service, as defined in s. 196.01  
13 (1b).

14 9. An interconnection agreement, as defined in s. 196.01 (3b), or a contract or  
15 agreement offered by a telecommunications utility, as defined in s. 196.01 (10), to  
16 meet obligations imposed on the telecommunications utility under 47 USC 151 to  
17 276.

18 10. A contract for the lease or purchase of telecommunications service, as  
19 defined in s. 196.01 (9m), including commercial mobile service, as defined in s. 196.01  
20 (2i), if the contract is derived from a tariff issued by a telecommunications provider,  
21 as defined in s. 196.01 (8p), or if the contract permits the lessee or purchaser to  
22 terminate the contract after an automatic renewal by giving written notice, permits  
23 the termination to take effect not more than one month after receipt of the written  
24 notice, and permits a termination without liability for fees or penalties other than

SENATE BILL 190

1 a payment for services or equipment used during the period before the termination  
2 takes effect, if the amount of the payment is one of the following:

3 a. The amount of the periodic payment due under the contract multiplied by  
4 the number of periods during which the services or equipment are provided before  
5 the termination takes effect.

6 b. If the contract does not provide for periodic payments, a portion of the  
7 amount due under the contract that is proportional to the portion of the renewed  
8 contract term that elapsed before the termination takes effect.

9 11. A contract that permits a customer to terminate an automatically renewed  
10 or extended contract period by giving the seller notice of the customer's intention to  
11 terminate the contract period, if the contract does not require the customer to give  
12 notice to the seller more than 30 days before the date of the customer's intended  
13 termination.

INS  
4-13

one month

14 (b) "Customer" means a person who conducts business in this state and who is  
15 the lessee under a business contract that is entered into for the lease of business  
16 equipment or the purchaser under a business contract that is entered into for the  
17 purchase of business services.

18 (c) "Seller" means the provider of a business service or the lessor of business  
19 equipment under a business contract. = subject to par. (d) ✓

20 (2) DISCLOSURE REQUIRED. (a) If a business contract provides that the contract  
21 will be automatically renewed or extended for an additional period unless the  
22 customer declines renewal or extension, and the duration of the additional period is  
23 more than one month, the seller shall do one of the following:

SENATE BILL 190

1           1. At the time the customer enters into the contract, present to the customer  
2 a copy of a form including the disclosures required under par. (b) and obtain the  
3 customer's signature on the form.

4           2. Include the disclosures required under par. (b) in the contract in a  
5 conspicuous manner and obtain the customer's initials on the contract on a page on  
6 which a disclosure appears.

7           (b) A disclosure required under par. (a) shall contain all of the following:

8           1. A statement that the contract will be renewed or extended unless the  
9 customer declines renewal or extension.

10          2. A statement indicating the duration of the additional contract period that  
11 would result from an automatic renewal or extension period.

12          3. A statement indicating whether an increase in charges to the customer will  
13 apply upon an automatic renewal or extension.

14          4. A description of action the customer must take to decline renewal or  
15 extension.

16          5. The date of the deadline for the customer to decline renewal or extension.

17          (c) If a seller fails to comply with par. (a), an automatic renewal or extension  
18 provision in the contract is not enforceable, and the contract terminates at the end  
19 of the current contract term.

20          (3) NOTICE REQUIRED. If a business contract that has an initial term of more  
21 than one year provides that the contract will be automatically renewed or extended  
22 for an additional term of more than one year, unless the customer declines renewal  
23 or extension, the provision is not enforceable against the customer and the contract  
24 will terminate at the end of the current contract term unless the seller provides to  
25 the customer, at least 15 days but not more than 45 days before the deadline for the

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SENATE BILL 190

SECTION 1

1 customer to decline renewal or extension, a written notice containing all of the  
2 following: ✓

3 (a) A statement that the contract will be renewed or extended unless the  
4 customer declines renewal or extension.

5 (b) The deadline for the customer to decline renewal or extension.

6 (c) A description of any increase in charges to the customer that will apply after  
7 renewal or extension.

8 (d) A description of action that the customer must take to decline extension or  
9 renewal.

10 (4) MANNER OF GIVING NOTICE. A seller or a person acting on behalf of the seller  
11 shall give the written notice required under sub. (3) by any of the following methods:

12 (a) By mailing a copy of the notice by regular U.S. mail to the customer at the  
13 customer's last-known business address, unless the contract requires the customer  
14 to notify the seller by certified mail of the customer's intent to cancel.

15 (b) By mailing a copy of the notice by registered or certified mail to the customer  
16 at the customer's last-known business address.

17 (c) By giving a copy of the notice personally to an owner, officer, director, or  
18 managing agent of the customer's business.

19 (d) By including the notice on the first page of a monthly invoice sent to the  
20 customer. Notice under this paragraph shall be prominently displayed in bold face  
21 type and in a type size no smaller than 12-point.

22 (e) By sending a facsimile to the customer to the customer's last-known  
23 facsimile number.

24 (f) By sending an electronic mail message to the customer at the customer's  
25 last-known electronic mail address.

INS  
6-25

↑ if the contract permits, the customer  
to use this method to notify the seller  
that the customer declines renewal or  
extension of the contract  
(use 2x)

SENATE BILL 190

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7-6

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(5) UNENFORCEABLE TERMS. No business contract between a seller and a customer may require that the customer permit the seller to match any offer the customer receives from or makes to another seller for services to be provided after the end of the stated term of the contract or renewal period of the contract. A provision in a business contract that violates this subsection is void and unenforceable.

(6) REMEDIES. (a) Subject to par. (b), if a seller attempts to enforce a provision in a business contract that is void and unenforceable under sub. (5), or to which subs. (3) and (4) apply and for which subs. (3) and (4) have not been complied with, the customer may commence an action or may file a counterclaim against the seller for either of the following:

1. An amount that equals twice the amount of the damages incurred by the customer.

2. An amount that equals twice the amount of the periodic payment specified in the contract or \$1,000, whichever is less.

(b) A seller is not liable in an action or counterclaim under par. (a) if the court finds all of the following:

1. The seller has established and implemented written procedures for complying with this section.

2. The seller's failure to comply with subs. (3) and (4), or the seller's attempt to enforce a provision that is void and unenforceable under sub. (5), was not willful or malicious.

3. The seller has refunded any amounts paid by the customer after the date of the renewal or extension until the date on which the business contract is terminated

**SENATE BILL 190**

**SECTION 1**

1 or until the date the seller provides a subsequent notice of renewal or extension,  
2 whichever is earlier.

3 (c) Notwithstanding the limitations in s. 814.04 (1), the court shall award a  
4 customer who prevails in an action or counterclaim under this subsection costs,  
5 including reasonable attorney fees.

6 **SECTION 2. Initial applicability.**

7 (1) This act first applies to contracts for the lease of business equipment or for  
8 providing business services that are entered into, modified, or renewed on the  
9 effective date of this subsection.

10 **SECTION 3. Effective date.**

11 (1) This act takes effect on the first day of the 12th month beginning after  
12 publication.

13 (END)

1           **Insert 4-13:**

2           12. A contract to which a federal, state, or local government entity is a party.✓

3           **Insert 5-19:**

4           (d) Paragraph (a)✓ does not apply to a contract in effect on the effective date of  
5           this paragraph .... [LRB inserts date]✓ or to subsequent renewals of such a contract.✓

6           **Insert 6-25:**

7           (g) By sending the notice via a recognized overnight courier service, if the  
8           contract permits the customer to use this method to notify the seller that the  
9           customer declines renewal or extension of the contract.✓

10          **Insert 7-6:**

11          **(6) REMEDIES.** (a) Any of the following customers may bring an action or  
12          counterclaim for damages against a seller:

13           1. A customer who has notified a seller that the customer declines renewal or  
14           extension of a business contract to which sub. (3)✓ applies, if the seller has failed to  
15           give notice as required under subs. (3)✓ and (4)✓ and the seller has refused to terminate  
16           the contract as requested by the customer.✓

17           2. A customer against whom a seller has attempted to enforce a provision in a  
18           business contract that is unenforceable under sub. (5)✓.

19           (b) A customer who prevails in an action or counterclaim under par. (a)✓ is  
20           entitled to damages in either of the following amounts:✓

21           1. An amount that equals twice the amount of the damages incurred by the  
22           customer.✓

1           2. An amount that equals twice the amount of the periodic payment specified  
2 in the contract or \$1,000, whichever is less.✓

3           (c) Notwithstanding the limitations in s. 814.04 (1),✓ the court shall award a  
4 customer who prevails in an action or counterclaim under this subsection✓ costs,  
5 including reasonable attorney fees.✓

6 (d) A seller is not liable in an action or counterclaim under par. (a) if the court  
7 finds either of the following:

*par. (a)*  
*this subsection*

8           1. All of the following:

9           a. The seller has established and implemented written procedures for  
10 complying with this section.✓

11           b. The seller's failure to comply with subs. (3)✓ and (4)✓, or the seller's attempt  
12 to enforce a provision that is void and unenforceable under sub. (5)✓, was not willful  
13 or malicious.✓

14           c. The seller has refunded any amounts paid by the customer after the date of  
15 the renewal or extension until the date on which the business contract is terminated.✓

16           2. The customer requested, in writing, renewal or extension of the contract that  
17 is the basis for the customer's action against the seller, and the customer was aware  
18 of the terms under which the contract would be renewed or extended.✓

*or counterclaim*