

2019 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1195

2019 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee Peace Garden Room, State Capitol

HB 1195
1/30/2019
31850

- Subcommittee
 Conference Committee

Committee Clerk: Ellen LeTang by Kathleen Davis

Explanation or reason for introduction of bill/resolution:

Relating to customer contract clauses and the use of certain marketing practices involving automatic renewal; to provide a penalty and to provide for application

Minutes:

Attachment 1,2,3,4,5

Vice Chairman Lefor: Opens the hearing on HB 1195.

Chairman Keiser: Introduces HB 1195 and presents Attachments 1, 2, 3, and 4. This is a complicated issue. Goes over the Christmas tree version of the bill. This has service from one company that more or less has a monopoly. We are here for the provision of the contract, the fine print of the contract. We need to protect the customer.

20:50

Rep Richter: On the contract, number 9 is the right of refusal and 4. With the right of first refusal couldn't they match the competitive contract and then raise the price a couple months later?

Chairman Keiser: I'm not sure.

Rep Schauer: Page 3, line 15, the word consumer, should that be changed to customer like in the rest of the document?

Chairman Keiser: I think it's correct.

Rep Schauer: How large of an organization is Waste Management as far as presence in ND?

Chairman Keiser: I'm not sure but in the Bismarck market it is a large and significant portion.

Rep Schauer: Why did you get involved?

Chairman Keiser: This company is in the top 10% in the complaint department at the Attorney General's office.

Rep D Ruby: Line 15, page 1, I think this is written right. This is more requiring a spotlight on an area people are not catching, is that fair to say?

Chairman Keiser: That is the intent, that requires you send notice that you need to renew it.

Rep D Ruby: Are you under the assumption most people believe if they have to buy out of the contract it would be a multiple of the bill they receive rather than additional overcharges or extra fees they request within a week?

Chairman Keiser: I concur with that observation. In visiting with the AG's office, that could get into other areas of contract law you may not want to venture in to. It was the concern of the AG's office that might be going too far into contract issues.

Rep D Ruby: What is the date of the other email that it had still not been taken care of?

Chairman Keiser: It was sometime later they got another invoice, they said this has been addressed, and the attorney apologized and said it was corrected.

Rep Bosch: On page 3, section 2, would require sending out a renewal of notification, would people think it's burdensome to keep getting the renewal notice?

Chairman Keiser: Six months is arbitrary but better than three years, but I believe people would like it.

Rep Bosch: If the contract says no penalty to break the contract, it wouldn't be an issue.

Chairman Keiser: Absolutely. If a contract ends in less than 30 day, then it isn't an issue.

Rep Kasper: Does this bill apply to all service contracts from any business or is it limited to certain businesses?

Chairman Keiser: I'm not qualified to answer that. I don't think an insurance contract is a service contract. It would apply to a customer who borrows, buys, leases or obtains personal property, real property or services for valuable consideration.

Rep Kasper: I would like it to apply it to technology companies like Facebook.

Rep M Nelson: Page 3, Lines 17-20- Aren't we really focused on the period for cancellation to give the consumer the choice to cancel if they so choose?

Chairman Keiser: At this point is the 30 days before the contract deadline for renewal.

Rep M Nelson: I could say it's at the end of the service period.

Chairman Keiser: It does say that not more than 60 days before the date upon which the agreement will be renewed. You have to do it within that 30-60-day window before it's renewed.

Rep M Nelson: Which is ever is earlier is crossed out, why?

Chairman Keiser: That gives the flexibility for the provider.

Vice Chairman Lefor: Support, opposition, neutral on HB 1195? Closes the hearing.

Rep D Ruby: This would be helpful to thousands in this state. Most people I talked to don't even know they have a contract. They may think they have a service agreement. I would move for to adopt the amendment.

Rep. Lefor: Second

Chairman Keiser: further discussion? We have a motion and a second to adopt the amendment. All those in favor aye, opposed. Motion carried.
We have HB 1195 as amended.

Rep. Lefor: Move a Do Pass as Amended on HB 1195.

Rep. Kasper: second.

Rep Bosch: I'm going to support the bill. I'm curious about XM radio?

Chairman Keiser: I also have XM and get a renewal before it expires. It's not automatic. In my case, if I cancel the autopay, I predict I get canceled without notice. I can cancel without penalty. Here, it's the penalty that's prohibitive.

Roll call vote. 14 yes 0 no 0 absent. Motion carried. Rep. Richter is carrier.

Attachment 5, AT&T, Cheryl Riley, did not testify.

2019 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee Peace Garden Room, State Capitol

HB 1195
1/30/2019
31849

- Subcommittee
 Conference Committee

Committee Clerk: Ellen LeTang by Kathleen Davis

Explanation or reason for introduction of bill/resolution:

Relating to customer contract clauses and the use of certain marketing practices involving automatic renewal; to provide a penalty and to provide for application

Minutes:

Chairman Keiser: Opens the hearing on HB 1195.

Vice Chairman Lefor: Makes a motion to reconsider bringing back HB 1195.

Rep. Nelson: Second.

Chairman Keiser: We have a motion and a second to reconsider HB 1195. Voice vote, motion carried.

David Crothers, Broadband Association of ND: Page 4 Line 3 where exceptions begin. Line 6 you directed an exception directly to the sale of public utilities regulated under Title 49 of the FCC. You adopted an amendment with the words, "or services related thereto." The telephone services under old copper lines and digital switches has evolved to VOIP, fiber optics, that is not specifically regulated. We have broadband, video, automation, security, those are services.

Chairman Keiser: The Christmas Tree version of the bill is Page 4 Line 7.

Vice Chairman Lefor: So the change you're requesting

David Crothers: continue to keep the words, "or services" from the original amendment but replace "related thereto" with "provided by them." It captures the change in technology going to VOIP, fiber optics, recognizes video services you purchase from locally owned companies and their services.

Vice Chairman Lefor: I would move to further amend HB 1195, that on Page 4 Line 7 take out "related thereto" and after the words "or services", add "provided by them."

David Crothers: Yes I think the language refers right back what you had in the original exception you contemplated.

Rep. Nelson: Second

Chairman Keiser: We have a motion and second to further amend HB 1195. All those in favor of further amending HB 1195 indicate by saying aye, opposed. Motion carried.
The bill is amended.

Rep. Lefor: I move a Do Pass as further Amended.

Rep. Schauer: Second.

Chairman Keiser: We have a motion and a second for a Do Pass as further amended.
Further discussion?

Roll call vote. 13 yes 0 no 1 absent Motion carried. Rep. Richter is carrier.

January 28, 2019

DP 1/30/19
1 of 2

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1195

Page 1, line 2, replace "consumer" with "customer"

Page 1, line 7, replace "**Consumer**" with "**Customer**"

Page 1, line 9, replace "Consumer" with "Customer"

Page 1, line 9, replace "an individual who" with "a person that"

Page 1, line 10, replace "consumer" with "service"

Page 1, line 10, after the underscored period insert "The term does not include a government entity."

Page 1, line 11, replace "Consumer" with "Service"

Page 1, line 11, replace "consumer" with "customer"

Page 1, line 12, remove ", made primarily for personal, family,"

Page 1, line 13, remove "or household purposes,"

Page 1, line 13, replace "consumer" with "customer"

Page 1, after line 14, insert:

"c. "Terms and conditions" means general and special arrangements, provisions, requirements, rules, specifications, and standards that form an integral part of an agreement or contract."

Page 1, line 15, replace "consumer" with "service"

Page 1, line 15, replace "a condition or terms" with "terms and conditions"

Page 1, line 15, replace "each clause" with "the service contract"

Page 1, line 16, replace "initialed" with "accepted"

Page 1, line 16, replace "consumer" with "customer"

Page 1, line 16, replace "clause" with "service contract"

Page 1, line 17, replace "consumer" with "service"

Page 2, line 6, after "renewed" insert "for a period of more than one month"

Page 2, line 30, replace "thirty-one days" with "six months"

Page 2, line 31, remove "via registered mail"

Page 3, line 1, replace "The" with:

"a. The written notice must be provided by:

(1) First-class mail;

(2) Electronic mail; or

DP 1/30/19
2 of 2

(3) Any easily accessible form of communication, including text message or a mobile application, if the consumer specifically authorizes the person to provide notice in such form.

b. The written"

Page 3, line 4, remove ", whichever is earlier"

Page 3, line 21, after "commission" insert "or services related thereto"

Page 4, line 12, after the underscored period insert "A business that complies in good faith with the provisions of this chapter is immune from civil liability."

Renumber accordingly

January 31, 2019

DA 1/31/19
1 of 2

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1195

Page 1, line 2, replace "consumer" with "customer"

Page 1, line 7, replace "Consumer" with "Customer"

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DA 1/31/19
2 of 2

(3) Any easily accessible form of communication, including text message or a mobile application, if the consumer specifically authorizes the person to provide notice in such form.

b. The written"

Page 3, line 4, remove ", whichever is earlier"

Page 3, line 21, after "commission" insert ", or services provided by the public utilities"

Page 4, line 12, after the underscored period insert "A business that complies in good faith with the provisions of this chapter is immune from civil liability."

Renumber accordingly

Date: 1-30-19

Roll Call Vote #: 1

2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES

BILL/RESOLUTION NO. 1195

House _____ Industry, Business and Labor _____ Committee

Subcommittee

Amendment LC# or Description: 19.0455, 01002

Recommendation

- Adopt Amendment
- Do Pass Do Not Pass Without Committee Recommendation
- As Amended Refer to Appropriations
- Place on Consent Calendar

Other Actions Reconsider _____

Motion Made by Ruby Seconded By Lefor

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser			Rep O'Brien		
Vice Chairman Lefor			Rep Richter		
Rep Bosch			Rep Ruby		
Rep C Johnson			Rep Schauer		
Rep Kasper			Rep Adams		
Rep Laning			Rep P Anderson		
Rep Louser			Rep M Nelson		

Total (Yes) _____ No _____

Absent _____

Floor Assignment Voice Vote Motion carried

1st

Date: 1-30-19

Roll Call Vote #: 2

2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES

BILL/RESOLUTION NO. 1195

House _____ Industry, Business and Labor _____ Committee

Subcommittee

Amendment LC# or Description: 19.0455.01002

Recommendation

- Adopt Amendment
- Do Pass Do Not Pass Without Committee Recommendation
- As Amended Rerefer to Appropriations
- Place on Consent Calendar

Other Actions Reconsider _____

Motion Made by Rep Lefor Seconded By Rep Kasper

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	x		Rep O'Brien	x	
Vice Chairman Lefor	x		Rep Richter	x	
Rep Bosch	x		Rep Ruby	x	
Rep C Johnson	x		Rep Schauer	x	
Rep Kasper	x		Rep Adams	x	
Rep Laning	x		Rep P Anderson	x	
Rep Louser	x		Rep M Nelson	x	

Total (Yes) 14 No 0

Absent 0

Floor Assignment Rep Richter

Date: 1-30-19

Roll Call Vote #: 1

2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES

BILL/RESOLUTION NO. 1195

House _____ Industry, Business and Labor _____ Committee

Subcommittee

Amendment LC# or
Description: _____

Recommendation

- Adopt Amendment
- Do Pass Do Not Pass Without Committee Recommendation
- As Amended Rerefer to Appropriations
- Place on Consent Calendar

Other Actions

- Reconsider
- _____

Motion Made by Lefor Seconded By Nelson

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser			Rep O'Brien		
Vice Chairman Lefor			Rep Richter		
Rep Bosch			Rep D Ruby		
Rep C Johnson			Rep Schauer		
Rep Kasper			Rep Adams		
Rep Laning			Rep P Anderson		
Rep Louser			Rep M Nelson		

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

*Voice Vote
Motion carried*

Date: 1-30-19

Roll Call Vote #: 2

**2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES**

BILL/RESOLUTION NO. 1195

House _____ Industry, Business and Labor _____ Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation

- Adopt Amendment
- Do Pass Do Not Pass Without Committee Recommendation
- As Amended Rerefer to Appropriations
- Place on Consent Calendar
- Other Actions Reconsider

Motion Made by Lefor Seconded By Nelson

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser			Rep O'Brien		
Vice Chairman Lefor			Rep Richter		
Rep Bosch			Rep D Ruby		
Rep C Johnson			Rep Schauer		
Rep Kasper			Rep Adams		
Rep Laning			Rep P Anderson		
Rep Louser			Rep M Nelson		

Total (Yes) _____ No _____

*Vote
Vote
Motion
Carried*

Absent _____

Floor Assignment _____

*Pg 4 Line 7
delete "related thereto" and
after the words "or services"
add "provided by them"*

Date: 1-30-19

Roll Call Vote #: 3

2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES

BILL/RESOLUTION NO. 1195

House _____ Industry, Business and Labor _____ Committee

Subcommittee

Amendment LC# or Description: 19,0455,01003

Recommendation

- Adopt Amendment
- Do Pass Do Not Pass Without Committee Recommendation
- As Amended Rerefer to Appropriations
- Place on Consent Calendar

Other Actions Reconsider _____

Motion Made by Rep Lefor Seconded By Rep Schauer

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	x		Rep O'Brien	x	
Vice Chairman Lefor	x		Rep Richter	x	
Rep Bosch	x		Rep Ruby	x	
Rep C Johnson	x		Rep Schauer	x	
Rep Kasper	Ab		Rep Adams	x	
Rep Laning	x		Rep P Anderson	x	
Rep Louser	x		Rep M Nelson	x	

Total (Yes) 13 No 0

Absent 1

Floor Assignment Rep Richter

REPORT OF STANDING COMMITTEE

HB 1195: Industry, Business and Labor Committee (Rep. Keiser, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1195 was placed on the Sixth order on the calendar.

Page 1, line 2, replace "consumer" with "customer"

Page 1, line 7, replace "Consumer" with "Customer"

Page 1, line 9, replace "Consumer" with "Customer"

Page 1, line 9, replace "an individual who" with "a person that"

Page 1, line 10, replace "consumer" with "service"

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Page 3, line 4, remove ", whichever is earlier"

Page 3, line 21, after "commission" insert ", or services provided by the public utilities"

Page 4, line 12, after the underscored period insert "A business that complies in good faith with the provisions of this chapter is immune from civil liability."

Renumber accordingly

2019 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1195

2019 SENATE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee Roosevelt Park Room, State Capitol

HB 1195
3/11/2019
Job #33471

- Subcommittee
 Conference Committee

Committee Clerk: Amy Crane

Explanation or reason for introduction of bill/resolution:

Relating to customer contract clauses and the use of certain marketing practices involving automatic renewal; to provide a penalty; and to provide for application.

Minutes:

Att. #1-4

Chairman Klein: Opened the hearing on SB. All members were present.

Representative Keiser, District 47: introduced the bill. I have said before that I don't want to get in the way or get involved businesses writing contracts that gives them freedom to write whatever contract, terms and conditions they may wish to write. However, we do have some obligation as contracts are written to address problems that may arise. This contract resulted in a very high number of complaints to the attorney general's office so clearly something is off here that we need to take a look at. So what we're saying in this bill is prior to 30 days out, if there is automatic renewal, has to contact the person and say your automatic renewal is coming up, do you want to do it or not? Give them the option to get out. If there is a material change in the agreement that contains a provision for automatic renewal, the seller shall provide the buyer with clear and conspicuous notice of that. See attachment #1 for proposed amendment. See attachment #2 for pertinence of the bill.

(11:51) Senator Roers: So you do have language in here that says if you're going to raise your rate, the buyer has the chance to cancel at this point in time?

Representative Keiser: Yes. The automatic renewal is gonna have to cover the rates. If you're notifying me of the auto renewal, you would also have to discuss rates at that time.

Senator Roers: But then they're given the option to cancel at that time without all these 160-180 day windows.

Representative Keiser: Yes, that's the goal of this bill.

Senator Roers: What do you mean by commercial here? Does this preclude them from suing individuals?

Representative Keiser: Most individuals have city garbage collection. It's the principal of giving the individual or person the option for renewal. If it's a problem for the private market, then I have no problem accepting that.

Chairman Klein: This is a specific constituent issue I had as well.

Senator Roers: My comment would be this is the exact same thing that happened to me. The numbers were even more egregious than the ones shown here. It took me two years to cancel this. Because orders from headquarters would never make it to the guys out in the field. Every time you dealt with this, you dealt with a new person. So I applaud you for bringing this bill.

Representative Keiser: What is craziest to me, is that they can go with your highest rate. You can leave your dumpster there empty and they can still charge you for it because you have a contract and its sitting there, unused.

Parrell Grossman, Director, Consumer Protection and Antitrust Division, Office of Attorney General: see attachment #3 for testimony in support of the bill.

(28:25)Chairman Klein: Does this only apply to commercial or does this apply to anyone that has a contract out there with any one company?

Parrell: In this case, this statute would apply to all contracts with customers. We did not limit it to consumers.

Chairman Klein: There's interest from the internet association I'm going to have you take a look at, just to make sure it lines up with the wording in here.

Chairman Klein: Closed the hearing on HB 1195.

See attachment #4 for additional testimony submitted to the committee.

2019 SENATE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee Roosevelt Park Room, State Capitol

HB 1195
3/11/2019
Job #33474

- Subcommittee
 Conference Committee

Committee Clerk: Amy Crane

Explanation or reason for introduction of bill/resolution:

relating to customer contract clauses and the use of certain marketing practices involving automatic renewal; to provide a penalty; and to provide for application.

Minutes:

None.

(recording begins at 7:00 minutes on Job #33474)

Representative Keiser: I spoke with the attorney general's office about the proposed amendment and I do not support it. I think the bill as is, is proper and I do not think we should make exceptions for anyone. If you want to have automatic renewal then have it, but you have to notify the customer when it's coming up.

Chairman Klein: Okay, because what was handed out was just somebody looking for a carve out?

Representative Keiser: Right.

Parrell Grossman: I agree with Representative Keiser's concerns. Had I seen this earlier, I would have had some comments on this. We would oppose the requirement of this statute not apply to businesses primarily for the very case we spoke about involved commercial contracts in rural areas, it involved a nonprofit entity. So this legislation if you provide this carve out limited it to personal family or house hold purposes would not be effective and then we would be back to investigating on case by case basis. I would recommend against that. and I think that's true regardless of what other states have. If you agree with our opposition, then you also would not need to make the change where the say section 51-37021, the person that sells.

Chairman Klein: So all we need to do for that then is change to applies in good faith and that is the only amendment we will be considering then?

Parrell: Right. I didn't discuss this with Representative Keiser but I don't have any objection to any easily accessible forms of communication including a text message or mobile application if the customer specifically authorizes it.

2019 SENATE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Roosevelt Park Room, State Capitol

HB 1195
3/11/2019
Job #33486

- Subcommittee
 Conference Committee

Committee Clerk: Amy Crane

Explanation or reason for introduction of bill/resolution:

Relating to customer contract clauses and the use of certain marketing practices involving automatic renewal; to provide a penalty; and to provide for application.

Minutes:

None.

Chairman Klein: Opened the committee work session on HB 1195.

Chairman Klein: There is an amendment from Representative Keiser.

Senator Roers: Moved to Adopt Amendment.

Senator Burckhard: Seconded.

Senator Piepkorn: There was some discussion on some amendments but we're not gonna pay any attention to those? They were just kind of disregarded?

Chairman Klein: Yes, I was received them in an email from someone I didn't know at all and so I conferred with the attorney general's office and it would've provided carve outs that we didn't want to do so.

A Roll Call Vote Was Taken: 6 yeas, 0 nays, 0 absent.

Motion Carried.

Senator Roers: Moved a Do Pass as Amended.

Senator Kreun: Seconded.

Chairman Klein: It was interesting that Representative Keiser had the same issue last year that I had with one of my constituents. I had asked the attorney general to help me figure it out and when we reviewed that fine print it was certainly disappointing to the consumer.

Senator Roers: I also had this personal experience and it took me over two years to resolve it and it was not pretty at all. They were very astute to their contract terms and there was no negotiating to be done and it took me a long time to get it over and done with. And what really irritated me was at the end of the conversation they said oh by the way we have the right to match your other offer would you please show us your other offer and I said not a chance. They played every care they had in that contract so I'm really excited to see this bill clip this injustice and will be happy to carry it.

Senator Piepkorn: I pretty much agree with what people are talking about. I understand this companies point of view, and I'm objecting to this bill, is the provision number 2 of the contract where the companies' clients are not taking the time to read the fine print. For the most part, I think consumers should be responsible enough to read the fine print and look this over.

Chairman Klein: I think this farmer was just glad that someone was picking up his garbage at his farm.

Senator Roers: Exactly what you said there, this is a garbage contract and not many people think that there is this much detail that goes into a garbage contract. The new company it's a handshake deal and it's a thirty-day agreement. You pay the bill and they pick up the garbage. It's very simple, there is nothing as complicated as this bill that I've ever seen before. It's a little onerous.

Chairman Klein: I could've brought in consumers that are affected by this because I know a few that are, but at the end when I was trying to explain to her that they were just in a bad deal. So I don't know where this leaves here now but at least they would be better off going forward from here on.

A Roll Call Vote Was Taken: 6 yeas, 0 nays, 0 absent.

Motion Carried.

Senator Roers will carry the bill.

19.0455.02001
Title.03000

Prepared by the Legislative Council staff for
Representative Keiser
February 28, 2019

SK 3/11
12/1

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1195

Page 4, line 19, remove "A business that complies in good faith with the provisions of this"

Page 4, remove line 20

Renumber accordingly

Date: 3/11
Roll Call Vote #: 1

2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1195

Senate Industry, Business and Labor Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
Other Actions: Reconsider _____

Motion Made By News Seconded By Burckhard

Senators	Yes	No	Senators	Yes	No
Chairman Klein	X		Senator Piepkorn	X	
Vice Chairman Vedaa	X				
Senator Burckhard	X				
Senator Kreun	X				
Senator Roers	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent: complies in good faith

**2019 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1195**

Senate Industry, Business and Labor Committee

Subcommittee

Amendment LC# or Description: _____

- Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
- Other Actions: Reconsider _____

Motion Made By Roers Seconded By Kreun

Senators	Yes	No	Senators	Yes	No
Chairman Klein	X		Senator Piepkorn	X	
Vice Chairman Vedaa	X				
Senator Burckhard	X				
Senator Kreun	X				
Senator Roers	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Roers

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1195, as engrossed: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1195 was placed on the Sixth order on the calendar.

Page 4, line 19, remove "A business that complies in good faith with the provisions of this"

Page 4, remove line 20

Renumber accordingly

2019 TESTIMONY

HB 1195

Sixty-sixth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1195

Introduced by

Representatives Keiser, D. Ruby

1 A BILL for an Act to create and enact section 51-07-30 and chapter 51-37 of the North Dakota
2 Century Code, relating to ~~consumer~~customer contract clauses and the use of certain marketing
3 practices involving automatic renewal; to provide a penalty; and to provide for application.

4 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

5 **SECTION 1.** Section 51-07-30 of the North Dakota Century Code is created and enacted as
6 follows:

7 **51-07-30. ~~Consumer~~Customer contract clauses - Billing examples - Enforcement -**
8 **Penalty.**

9 1. As used in this section:

- 10 a. "~~Consumer~~Customer" means ~~an individual who~~ a person that borrows, buys,
11 leases, or obtains services or property under a ~~consumer~~service contract. ~~The~~
12 term does not include a government entity.
- 13 b. "~~Consumer~~Service contract" means a written agreement between a
14 ~~consumer~~customer and a party acting in the usual course of business, ~~made~~
15 primarily for personal, family, or household purposes, in which a
16 ~~consumer~~customer borrows, buys, leases, or obtains personal property, real
17 property, or services for valuable consideration.
- 18 c. "Terms and conditions" means general and special arrangements, provisions,
19 requirements, rules, specifications, and standards that form an integral part of an
20 agreement or contract.
- 21 2. If a ~~consumer~~service contract contains ~~a condition or term~~terms and conditions
22 clauses, ~~each clause~~the service contract must be ~~initialed~~accepted by the
23 ~~consumer~~customer for the ~~clause~~service contract to be enforceable.

- 1 3. If a **consumerservice** contract contains a liquidated damages clause, the clause must
2 provide specific examples of how any fees or charges will be calculated.
- 3 4. The attorney general may enforce this section. The attorney general, in enforcing this
4 section, has the powers provided in chapter 51-15 and may seek the remedies in
5 chapter 51-15. Each act in violation of this section constitutes a separate violation of
6 chapter 51-15. The remedies, duties, prohibitions, and penalties of this section are not
7 exclusive and are in addition to all other causes of action, remedies, and penalties in
8 chapter 51-15, or otherwise provided by law.

9 **SECTION 2.** Chapter 51-37 of the North Dakota Century Code is created and enacted as
10 follows:

11 **51-37-01. Definitions.**

12 As used in this chapter:

- 13 1. "Automatic renewal" means a plan or arrangement in which a paid subscription or
14 purchasing agreement is automatically renewed for a period of more than one month
15 at the end of a definite period for a subsequent period.
- 16 2. "Clear and conspicuous" means in a larger type than the surrounding text, in
17 contrasting type, font, or color to the surrounding text of the same size, or set off from
18 the surrounding text of the same size or symbols or other marks, in a manner that
19 clearly calls attention to the language and makes the language readily apparent,
20 readable, and understandable to the person to which the language is disclosed. In the
21 case of an audio disclosure, "clear and conspicuous" means in a volume and cadence
22 sufficient to be readily audible and understandable. A statement that contradicts or is
23 inconsistent with any other information with which the statement is presented is not
24 clear and conspicuous.

25 **51-37-02. Use of automatic renewal.**

- 26 1. A person that sells or offers to sell merchandise for a specified period under an
27 agreement containing a provision for automatic renewal shall:
- 28 a. Present the terms of the automatic renewal offer in a clear and conspicuous
29 manner before a subscription or purchasing agreement is fulfilled and in proximity
30 to the offer;

- 1 b. Provide an acknowledgment that includes the terms of the automatic renewal
2 offer and information regarding how to cancel in a manner which is capable of
3 being retained by the buyer; and
- 4 c. Provide a cost-effective, timely, and simple procedure for cancellation which must
5 be described in the acknowledgment required by subdivision b.
- 6 2. A person that sells or offers to sell merchandise for a specified period under an
7 agreement that contains a provision for automatic renewal for a period of more than
8 thirty one days~~six months~~ at the end of the time period specified in the agreement
9 shall provide a clear and conspicuous written notice via registered mail to the buyer
10 stating the buyer may cancel the contract and avoid automatic renewal.~~The~~
- 11 a. The written notice must be provided by:
- 12 (1) First-class email;
- 13 (2) Electronic mail; or
- 14 (3) Any easily accessible form of communication, including text message or a
15 mobile application, if the consumer specifically authorizes the person to
16 provide notice in such form.
- 17 b. The written notice must include the procedure for canceling and must be given at
18 least thirty days and not more than sixty days before the date upon which the
19 agreement will be renewed or the expiration of the period for cancellation;
20 whichever is earlier.
- 21 3. If there is a material change in the terms of an agreement that contains a provision for
22 automatic renewal, the seller shall provide the buyer with clear and conspicuous notice
23 of the material change and provide information regarding how to cancel in a manner
24 which is capable of being retained by the buyer.
- 25 4. A person that sells or offers to sell merchandise for a specified period under an
26 agreement that contains a provision for automatic renewal may not make or submit
27 any charge to a buyer's credit card, debit card, bank account, account with a third
28 party, or other financial account, unless the person has complied with the
29 requirements of subsection 1 and obtained the buyer's affirmative consent to the
30 agreement containing the terms of the automatic renewal.

1 5. The renewal period in a provision for automatic renewal of an agreement for sale of
2 merchandise may not exceed twelve months.

3 **51-37-03. Exceptions.**

4 This chapter does not apply to:

- 5 1. The sale of insurance regulated under title 26.1;
6 2. The sale of public utilities regulated under title 49 or the federal communications
7 commission or services related thereto; or
8 3. A bank, bank holding company, credit union, or other financial institution or trust
9 company regulated under title 6.

10 **51-37-04. Remedies.**

11 An agreement for sale of merchandise in violation of this chapter is unenforceable and void.
12 If a person sends merchandise as a result of an automatic renewal of agreement without
13 complying with the requirements of section 51-37-02 or sends merchandise after a buyer
14 undertook an affirmative act to cancel or otherwise avoid charges, the merchandise is
15 considered to be an unconditional gift to the buyer who may dispose of the gift in any manner
16 the buyer sees fit without any obligation to the person.

17 **51-37-05. Enforcement - Powers - Remedies - Penalty.**

18 The attorney general may enforce this chapter. The attorney general, in enforcing this
19 chapter, has the powers provided in chapter 51-15 and may seek the remedies in chapter
20 51-15. Each act in violation of this chapter constitutes a separate violation of chapter 51-15.
21 The remedies, duties, prohibitions, and penalties of this chapter are not exclusive and are in
22 addition to all other causes of action, remedies, and penalties in chapter 51-15, or otherwise
23 provided by law.

24 **51-37-06. Private enforcement.**

25 A person aggrieved by a violation of this chapter may bring an action to enjoin the violation
26 or for restitution, or both. The court may award the plaintiff costs, expenses, and reasonable
27 attorney's fees. This section does not limit any other claims the plaintiff may have against a
28 seller subject to this chapter. A business that complies in good faith with the provisions of this
29 chapter is immune from civil liability.

30 **SECTION 3. APPLICATION.** This Act applies to contracts entered after July 31, 2019.

From: Hamstra, Micah <mhamstra@wm.com>
Sent: Friday, December 21, 2018 4:28 PM
To: Kraft, Crystal M.
Cc: Korb, Yvette; kathy@rmhcbismarck.org
Subject: RE: Notice of Complaint
Attachments: ND_AG Response_Ronald McDonald Charities 12 21 18.pdf

Investigator Kraft,
Attached is a response to the complaint filed by Ronald McDonald House against Waste Management of North Dakota, Inc.
-Micah

Micah Hamstra
Legal Counsel
mhamstra@wm.com

Waste Management
312-533-5268

-----Original Message-----

From: Kraft, Crystal M. <crkraft@nd.gov>
Sent: Tuesday, December 4, 2018 10:43 AM
To: Hamstra, Micah <mhamstra@wm.com>
Cc: Korb, Yvette <ykorb1@wm.com>
Subject: Notice of Complaint

CPAT# 070005.027

Micah:

Attached is a copy of a consumer complaint received by our office against your business. Please review this complaint and provide your response, explanation or any other information you would like this office to consider. Please provide your written response to this office within ten days. Please include copies of any documents you would like to submit in support of your position.

You may respond to me at the address and fax number below or by email.

The consumer has requested our assistance in this matter; therefore, we ask that you correspond directly with this office, not the consumer. The complaint file cannot be closed until we have received your response. Please promptly advise this office in the event this dispute is satisfactorily resolved.

We would appreciate your prompt attention to this matter. If you have any questions, please contact me. Thank you.

Crystal

Crystal Kraft

Investigator

Consumer Protection & Antitrust Division Office of Attorney General Gateway Professional Center

1050 East Interstate Ave. Ste. 200

Bismarck, ND 58503-5574

(701) 328-3404

(800) 472-2600 (Toll Free ND)

(701) 328-5568 (Fax)

crkraft@nd.gov

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Attachment 2

Recycling is a good thing. Please recycle any printed emails.

From: ndag@nd.gov on behalf of Attorney General <ndag@nd.gov>
Wednesday, November 28, 2018 4:11 PM
kathy@rmhcbismarck.org
Subject: AG General Complaint Form Submission

Submitted on November 28, 2018
Submitted by user: Anonymous
Submitted values are:

Complaint Information

Prefix: Ms.
Name: Kathy Keiser
Address: PO Box 7323
City: Bismarck
State: North Dakota
Zip Code: 58507-7323
Daytime Phone Number: 7012585131 - Work
Additional Phone Number: 7012588551 - Work
Age Range: 65 +
Email Address: kathy@rmhcbismarck.org
Confirm Email Address: kathy@rmhcbismarck.org

Information About the Business

Name of Person or Business Complained against: Ronald McDonald House Charities of Bismarck
Business Primary Contact Person: Kathy Keiser
Address: PO Box 7323
City: Bismarck
State: North Dakota
Zip Code: 58507-7323
Business Telephone Number: 7012585131
Business Alternate Telephone Number: 7012588551
Business Fax: 7012585076
Website: www.rmhcbismarck.org
Email Address: kathy@rmhcbismarck.org

Complaint Details

Seeking Resolution: Yes
Date Of Transaction/Event: October 31, 2018

Type of Product or Service Involved: trash removal service

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Name of person(s) with whom you dealt, if any: Camille Lopez, Anthony Garcia

Money Paid: \$00.00

Paid By:

Amount of Money Still Owed According to Person or Firm: \$00.00

First contact between you and the business:

Where did the transaction take place: Over the telephone

What Type of Sale Was This Transaction: Telephone

Did you sign a contract or written agreement: No

Did you receive a receipt or a contract: Yes

Explain the facts and circumstances of your complaint: I contacted Waste Management on 10/31 about cancelling the Ronald McDonald House service agreement with them, because of rising rates and excessive "overage" charges. Our Customer ID is 4-09303-43009 and our physical address is 609 N. 7th St., Bismarck, ND 58501. I initially spoke with Camille at W Mgt and she informed me that I had signed a contract in 2012, that renews automatically every 3 years and that I would not be able to cancel my current contract until April of 2021. I have not been notified, or given the opportunity to renew/cancel this agreement since the 2012 date - it just happens automatically. I told Camille and then Anthony at W Mgt that I have found a local contractor that would provide the same service for \$75/month (after a \$30/month donation to RMHC) compared to our most recent bill of \$168.33). Camille did tell me that I could break my contract with a penalty of 3 times our most current bill - total charge of \$504.99. I was also referred to Anthony who emailed me new contract on 10/31/18 at a slightly reduced rate - a little over \$100, as I remember. I did not respond to this email bid, and when he called to follow up the next week, I told him that I would not sign anything else from WM. He then had the new contract withdrawn electronically on 11/7/18. I have attached a copy of his cover email and the follow-up voided contract. I do not have a copy of the substitute contract.

I think that it's inappropriate that once you sign a contract with Waste Management, it automatically rolls over without any notice that your 3 years is up and that you only have a narrow window of opportunity to get out of the contract. And even if a person keeps track of the anniversary date, W Mgt still has a "right of first refusal" clause (#9) that gives them the opportunity to match another offer – even if a customer wants to cancel their contract due to rising prices, etc. I've attached a copy of this page of their contract, too.

What Would You Consider a Satisfactory Resolution to This Matter: Other

Amount of Refund:

Explanation: I would like to be able to cancel the Ronald McDonald House's current service contract with Waste Management effective immediately, without having to pay the 3 month penalty fee that their contract stipulates.

Have you complained to the business or person: Yes

Provide Details Such as: Date of contact, contact person, nature of response, response date, etc. Please provide a copy of response if applicable: 10/31/18 First call to WMgt (1-800-960-0008) – I spoke with Camille about cancelling our contract and was informed that according to the contract that I signed, we could not cancel it until April of 2012. When I questioned ever signing their contract in the first place, Camille then emailed me a copy of the contract that I signed 4/10/12 that had automatically renewed for 36 month terms, without notice to me. Current end of contract is end of April 2021 according to Camille. According to the contract's term (#2), "written notice of termination can be given at least 90 days, but not more than 180 days prior to the termination of the then existing term." (copy attached). HB 1195
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10/31/18 transferred to Anthony who questioned me about the rates that I was able to secure from a new vendor and he emailed me a new contract with a reduced fee, which was still more than the offer from our other vendor. I did not respond.

11/7/18 Phone call from Anthony again, asking me about signing the contract and I told him that I refused to sign anything else from them and that I would pursue other options. I also told him that they were holding their customers hostage with these auto-renewing contracts. I do have to admit that he was very polite in all of my conversations with him. After our phone call, he electronically withdrew the earlier contract that he had sent. (copy of the contract cover email and subsequent withdrawal attached – could not print a copy of the contract after it had been withdrawn.) I have not had further contact from them. The Ronald McDonald House is on an auto-payment plan, so our account with them is current.

Have you contacted an attorney about this complaint: No

Attorney's Name/Lawfirm if retaining an Attorney:

Have you filed a lawsuit against the business, its owners or employees?: No

Where and what was the results?:

Have you filed a complaint with any other agency: No

List the names of agencies:

Signature: Kathy Keiser

Signature Date: November 28, 2018

Reference Number: OC-12379

ATTENTION - IN ORDER TO PROCESS YOUR COMPLAINT

Copies of invoices, receipts, proof of payment, contracts, or other documents will need to be submitted as soon as possible to prevent any delays in processing your complaints.

All documents can be emailed to cpat@nd.gov, faxed to 701-328-5568, or mailed to:

Consumer Protection Division
1050 East Interstate Ave, Suite 200
Bismarck, ND 58503

Your Reference number is **OC-12379**, Please include with any documents submitted.

If you have any questions, please contact the Consumer Protection Division at 1-800-472-2600 or 701-328-3404.

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Attachment 2



Wayne Stenehjem
ATTORNEY GENERAL

STATE OF NORTH DAKOTA
OFFICE OF ATTORNEY GENERAL

STATE CAPITOL
600 E BOULEVARD AVE DEPT 125
BISMARCK, ND 58505-0040
(701) 328-2210
www.attorneygeneral.nd.gov

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PLEASE RESPOND TO:
CONSUMER PROTECTION DIVISION
OFFICE OF ATTORNEY GENERAL
GATEWAY PROFESSIONAL CENTER
1050 E INTERSTATE AVE STE 200
BISMARCK, ND 58503-5574
(701) 328-3404
FAX (701) 328-5568
1-800-472-2600 (Toll Free)

CPAT # 070005.027

December 4, 2018

Ms. Kathy Keiser
Ronald McDonald House Charities of Bismarck
PO Box 7323
Bismarck, ND 58507-7323

This letter acknowledges receipt of your complaint against Waste Management. We have written them requesting their response to the issues addressed in your complaint. **Crystal M. Kraft** has been assigned to review/mediate your complaint and will contact you when a response from the business has been received and reviewed.

We will do our best to help you resolve your complaint. Please remember this complaint is being handled through our mediation process. It is possible our mediation process may not resolve your complaint at which time you may need to consider private legal action. The Attorney General and members of his staff are prohibited by statute from giving legal advice or assistance to private businesses or members of the public. We may only serve as legal advisors to state officials, state's attorneys and certain city officials.

We have asked Waste Management to correspond directly with our office; however, please keep us informed of any further contact you have with them or their employees concerning this matter. The Consumer Protection Division can be reached at 701-328-3404 or toll-free in North Dakota at 1-800-472-2600, or you can contact **Crystal M. Kraft** at cpat@nd.gov. To facilitate working toward a satisfactory resolution, it is important you promptly inform **Crystal M. Kraft** of any developments.

Sincerely,

Parrell D. Grossman, Director
Consumer Protection & Antitrust Division

From: Kathy Keiser <kathy@rmhcbismarck.org>
Sent: Wednesday, November 28, 2018 4:24 PM
To: Kathy Keiser
Subject: FW: 506-2018 RONALD MCDONALD Electronic Signature from Waste Management

From: DocuSign System [mailto:dse@docusign.net]
Sent: Wednesday, October 31, 2018 11:38 AM
To: KATHY KEISER <kathy@rmhcbismarck.org>
Subject: 506-2018 RONALD MCDONALD Electronic Signature from Waste Management

DocuSign



Anthony Garcia sent you a document to review and sign.



Anthony Garcia
agarci38@wm.com

PRIVATE MESSAGE

Dear KATHY KEISER. Camille Lopez from Waste Management has sent you this Agreement. Please review and sign this Document.

Thank you for utilizing Waste Management as your waste removal provider. We value your business and always want our service to reflect that fact. To update your account and ensure that you continue to receive the industry's finest waste and/or recycling services, we would appreciate your signing and returning to us the attached new

Service Agreement ("Agreement"). This document will replace any current Agreement that may be in place on your account with a new Agreement term that begins on the Effective Date listed on the document.

Please review the attached Agreement, including the terms and conditions, and call us with any questions or concerns. If all is satisfactory, please sign the Service Agreement electronically by following the link below. Once returned, this new Agreement will replace any current Agreement with a new term that begins as of the Effective Date. Please note: Any current, valid Agreement in place will remain in effect until the return of this new Agreement with your electronic signature.

If you choose not to send back this new Agreement the Term of any current Agreement that may be in place for your account will remain in full force and effect until properly terminated as provided in the Terms and Conditions. Feel free to contact me if you have any questions.

Thank You
Waste Management

This request was sent to you from Waste Management using the DocuSign Electronic Signature Service. Electronic signatures are an easy and fast way to sign documents. DocuSign's trusted and secure electronic signature process provides a legally binding signature for any document. When you receive a request for your electronic signature (this email is the request), click "Review Documents" in the email. You'll be guided through the process to select a ready-made signature or write your own and then guided through the document to ensure all information and signatures are completed. The legally signed document is then delivered back to Waste Management.

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This email contains a secure link to DocuSign. Please do not share this email, link, or access code with others.

Alternate Signing Method

Visit DocuSign.com, click 'Access Documents', and enter the security code:
6FD3FB87D5A5439FB1BB1A836E700C901


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Sign documents electronically in just minutes. It's safe, secure, and legally binding. Whether you're in an office, at home, on-the-go -- or even across the globe -- DocuSign provides a professional, trusted solution for Digital Transaction Management™.

Questions about the Document?

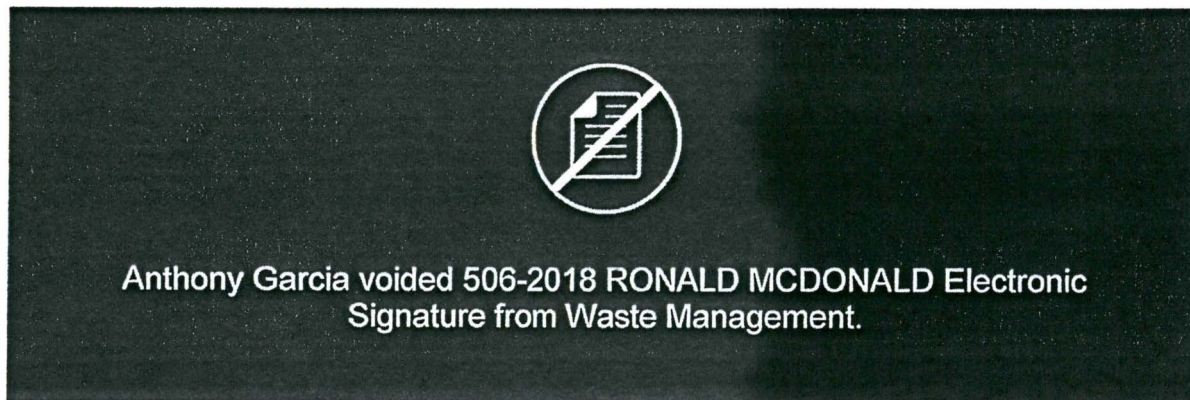
If you need to modify the document or have questions about the details in the document, please reach out to the sender by emailing them directly.

If you are having trouble signing the document, please visit the [Help with Signing](#) page on our Support Center.

 Download the DocuSign App

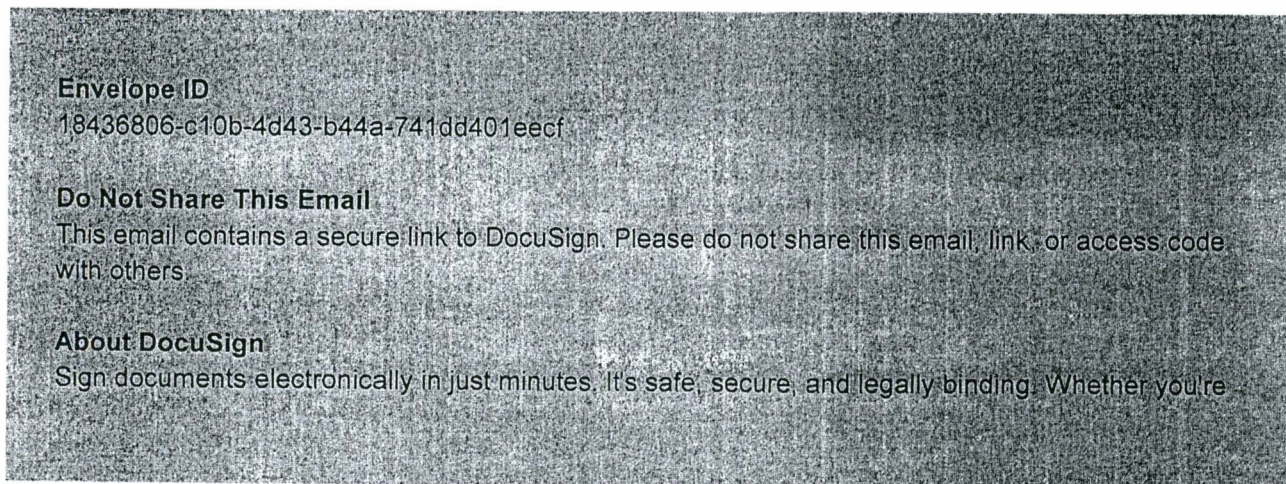
This message was sent to you by Anthony Garcia who is using the DocuSign Electronic Signature Service. If you would rather not receive email from this sender you may contact the sender with your request.

From: DocuSign System <dse@docusign.net> on behalf of Anthony Garcia via DocuSign <dse@docusign.net>
Sent: Wednesday, November 7, 2018 4:42 PM
To: Kathy Keiser
Subject: Voided: 506-2018 RONALD MCDONALD Electronic Signature from Waste Management



Anthony Garcia
agarci38@wm.com

506-2018 RONALD MCDONALD Electronic Signature from Waste Management has been voided for the following reason:
void



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#3

Kathy Keiser

To: cpat@nd.gov
Subject: RMHC Complaint # OC-12379
Attachments: RMHC AG Complaint # OC-12379 add. documents.pdf

I've attached supplementary documentation for the complaint that Ronald McDonald House Charities of Bismarck is filing again Waste Management, Complaint # OC-12379.

Please contact me should you need any further information or documentation.

Thank you for your help,

Kathy Keiser

Kathy Keiser
Executive Director
Ronald McDonald House Charities of Bismarck
www.rmhc-bismarck.org
701-258-5131



General Complaint

ATTENTION - IN ORDER TO PROCESS YOUR COMPLAINT

Copies of invoices, receipts, proof of payment, contracts, or other documents will need to be submitted as soon as possible to prevent any delays in processing your complaints.

All documents can be emailed to [cpat@nd.gov \(mailto:cpat@nd.gov\)](mailto:cpat@nd.gov), faxed to 701-328-5568, or mailed to:

Consumer Protection Division
1050 East Interstate Ave, Suite 200
Bismarck, ND 58503

Your Reference number is **OC-12379**, Please include with any documents submitted.

If you have any questions, please contact the Consumer Protection Division at 1-800-472-2600 or 701-328-3404.

[Go back to the website \(/consumer-resources/consumer-complaints\)](#)



INVOICE

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#3

Customer ID:
Customer Name:
Service Period:
Invoice Date:
Invoice Number:

4-09303-43009
RONALD MCDONALD HOUSE
10/01/18-10/31/18
10/30/2018
6531993-0506-7

How To Contact Us

Visit **wm.com**

To setup your online profile, sign up for paperless statements, manage your account, view holiday schedules, pay your invoice or schedule a pickup



Customer Service:
(888) 960-0008

Your Payment Is Due

Nov 29, 2018

If full payment of the invoiced amount is not received within your contractual terms, you may be charged a monthly late charge of 2.5% of the unpaid amount, with a minimum monthly charge of \$5, or such late charge allowed under applicable law, regulation or contract.

Your Total Due

\$168.33

If payment is received after 11/29/2018: **\$ 173.33**

See Reverse for Important Messages

Previous Balance	139.42	+	Payments	(139.42)	+	Adjustments	0.00	+	Current Charges	168.33	=	Total Due	168.33
------------------	--------	---	----------	----------	---	-------------	------	---	-----------------	--------	---	-----------	---------------

Details for Service Location: Ronald Mcdonald House, 609 7th St N, Bismarck ND 58501-3927 **Customer ID: 4-09303-43009**

Description	Date	Ticket	Quantity	Amount
2 Yd fel	10/01/18		1.00	119.95
Fuel / environmental charge				42.53
Regulatory cost recovery charge				5.85
Total Current Charges				168.33

----- Please detach and send the lower portion with payment --- (no cash or staples) -----

WM
WASTE MANAGEMENT
WASTE MANAGEMENT OF WI-MN
PO BOX 42390
PHOENIX, AZ 85080

(888) 960-0008
WMESERVICE@WM.COM

Invoice Date	Invoice Number	Customer ID (Include with your payment)
10/30/2018	6531993-0506-7	4-09303-43009
Payment Terms	Total Due	Amount
Total Due by 11/29/2018	\$ 168.33	
If Received after 11/29/2018	\$ 173.33	

*** DO NOT PAY-AUTOMATIC PAYMENT WILL BE PROCESSED ***
Your bank account will be drafted for \$168.33.

0506000040930343009065319930000001683300000016833 2

10500C16

RONALD MCDONALD HOUSE
PO BOX 7323
BISMARCK ND 58507-7323

WASTE MANAGEMENT OF WI-MN
PO BOX 4648
CAROL STREAM IL 60197-4648

THINK GREEN®



96-0002018-0506-6

IMPORTANT MESSAGES

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Attachment 3

Your enclosed invoice (next invoice for some customers billed in arrears) contains a service rate increase. All or some of this increase (1) above the Price Index (using the Water, Sewer, and Trash Collection CPI published by U.S. Bureau of Labor Statistics, 12 month rolling average) and (2) above processing and/or transportation costs, plus an amount for operating margin, requires your consent. Your consent will be deemed to occur upon payment. You may seek service or price adjustments or have the right terminate your service agreement within 30 days. Check your service agreement and visit wm.com/billhelp or contact us if you have any questions.

5 EASY WAYS TO PAY



Automatic Payment
Set up recurring payments with us at wm.com/myaccount.



Pay Through Your Financial Institution
Make a payment from your financial institution using your Customer ID.



One-Time Payment
At your desk or on the go, use wm.com or our WM mobile app for a quick and easy payment.



Pay by Phone
Payable 24/7 using our automated system at 866-964-2729.



Mail It
Write it, stuff it, stamp it, mail it. Envelope provided.

HOW TO READ YOUR INVOICE

How To Contact Us	Your Payment Is Due	Your Total Due		
Visit wm.com <small>To set up your online profile, sign up for paperless billing, manage your account, view holiday schedules, pay your bill or schedule a pickup.</small> Customer Service: (888) 909-4438	August 19, 2017 1 If full payment of the involved amount is not received by the invoice due date, you will be charged a monthly late charge of 2.5% of the unpaid amount, with a minimum charge of \$5.00, or such lesser late charge allowed under applicable law, regulation or contract.	\$124.73 1 If payment is received after 08/19/2017: \$126.80 <small>See reverse for important messages.</small>		
2 By Billback .12	Payments (97.12)	Adjustments 0.00		
Current Charges 124.73		Total Due 124.73		
Details for Service Location: 311 Jackson Street, Stockton CA 95205		Customer ID: 2-82190-00885 PO Numbers: 45893		
Description	Date	Ticket	Quantity	Amount
94 Meter	07/01/17		1.00	90.00
95 Meter Recycle	07/01/17		1.00	0.00
Est. Meter up Service	07/01/17	5934	1.00	15.00
Fuel/Environmental Charge				19.73
Total Current Charges				124.73

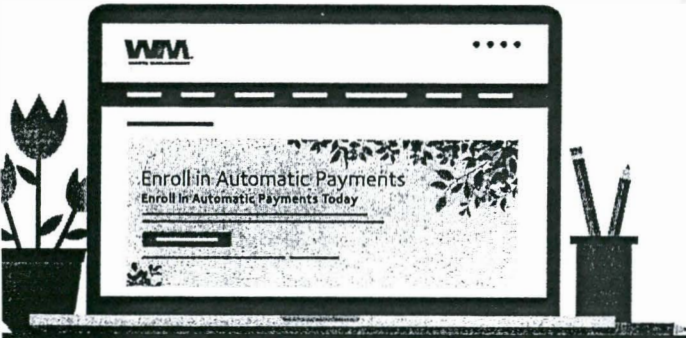
- 1 States the date payment is due to Waste Management. Anything beyond that date may incur additional charges. Your **Total Due** is the total amount of current charges and any previous unpaid balances combined.
- 2 Previous balance is the total due from your previous invoice. We subtract any **Payments Received/Adjustments** and add your **Current Charges** from this billing cycle to get a **Total Due** on this invoice. If you have not paid all or a portion of your previous balance, please pay the entire **Total Due** to avoid a late charge or service interruption.
- 3 Service location details the total current charges of this invoice.

www.wm.com/autopay



Automatic Payments

Simplify your life with easy and reliable automatic payments. Save time, prevent late charges and help the environment, too. Get started by visiting wm.com/autopay.



your service is suspended for non-payment, you may be charged a Resume charge to restart your service. For each returned check, a charge will be assessed on your next invoice equal to the maximum amount permitted by applicable state law.

CHECK HERE TO CHANGE CONTACT INFO

List your new billing information below. For a change of service address, please contact Waste Management.

Address 1	
Address 2	
City	
State	
Zip	
Email	
Date Valid	

CHECK HERE TO SIGN UP FOR AUTOMATIC PAYMENT ENROLLMENT

If I enroll in Automatic Payment services, I authorize Waste Management to pay my invoice by electronically deducting money from my bank account. I can cancel authorization by notifying Waste Management at wm.com or by calling the customer service number listed on my invoice. Your enrollment could take 1-2 billing cycles for Automatic Payments to take effect. Continue to submit payment until page one of your invoice reflects that your payment will be deducted.

Email Address	
Date	
Bank Account Holder Signature	

NOTE: By sending your check, you are authorizing the Company to use information on your check to make a one-time electronic debit to your account at the financial institution indicated on your check. The electronic debit will be for the amount of your check and may occur as soon as the same day we receive your check.

In order for us to service your account or to collect any amounts you may owe (for non-marketing or solicitation purposes), we may contact you by telephone at any telephone number that you provided in connection with your account, including wireless telephone numbers, which could result in charges to you. Methods of contact may include text messages and using pre-recorded/artificial voice messages and/or use of an automatic dialing device, as applicable. We may also contact you by email or other methods as provided in our contract.

Please send all bankruptcy correspondence to PO Box 43790 Phoenix AZ 85009 (this business is not a creditor)



**SERVICE AGREEMENT
NON-HAZARDOUS WASTES**

Waste Management of North Dakota, Inc.
W132 N10487 Grant Drive
Germantown, WI 53022

SIC Code	8399
Type of Business	COMMERCIAL

WM AGREEMENT#	
CUSTOMER ACCT#	508-0002018
ACCT. NAME	RONALD MCDONALD HOUSE
SERV. ADDR	609 7TH ST N
CITY, ST, Zip	BISMARCK, ND 58501-3927
COUNTY/Parish	5BURL
TEL #	(701) 258 - 8551
FAX	
CONTACT	KATHY KEISER
E-MAIL	kkaiser@btline.net

REASON CODE	RENEWAL - NEW AGREEMENT		
EFFECTIVE DATE	4/15/12	LAST API DATE	07/29/2011
BILL NAME	RONALD MCDONALD HOUSE		
BILL ADDR	PO BOX 7323		
CITY, ST, Zip	BISMARCK, ND 58507-7323		
COUNTY/Parish	5BURL		
TEL #	(701) 258 - 8551	FAX	
CONTACT	KATHY KEISER		
E-MAIL	kkaiser@btline.net		

EQUIPMENT/SERVICE SPECIFICATIONS -

NEW	Schedule & Route No.										Charge(s)*					
Loc.	Sys	Qty	Size	Lids	Whls	Lock	Freq	OC	M	T	W	Th	F	S	S	
	2FL	1.00	2.0	N	N	N	1			C2A4						\$ 44.00 /mth

Enter Map Code/ Driver Notes/Cross Roads/Container Description Here Total \$ 44.00/Mth

OLD	Schedule & Route No.										Charge(s)*					
Loc.	Sys	Qty	Size	Lids	Whls	Lock	Freq	OC	M	T	W	Th	F	S	S	

To be completed, if applicable. Any blanks or unfilled or unmarked boxes or spaces shall be deemed to be inapplicable and not affect the validity of this Agreement. Container pull/push out required? (No/Yes) Container behind gate or enclosure? (No/Yes) Customer's Waste Materials does not exceed an average weight of <input checked="" type="checkbox"/> lbs/yard	*A fuel surcharge and environmental cost recovery charge, calculated as a percentage of the Charge(s), will be included on your invoice. Information about the Fuel/Environmental Charge can be found on our website at www.wm.com under billing inquiry. State and Local Taxes, if applicable, will also be added to the Charges. If applicable to your account the Recycle Material Offset fee (RMO/RML) may vary from month to month based on the recyclable material commodity market conditions. The charge printed on this agreement represents the current fee and market conditions.	Total
		NetChange

Other applicable service terms (Including Waste Material composition): Enter Special Instructions and Set Up Comments Here

CUSTOMER DEPOSIT	
P.O. NUMBER	
JOB NUMBER	
RECEIPT REQUIRED?	No (Yes/No)
TAXABLE	(Yes/No)
BILL TO ACCT #	
DISPOSAL SITE	

SCHEDULE OF CHARGES AS REQUIRED*	
Container Usage Fee	\$
Locks	\$
Overage Charge	\$50.00
Extra Pickup Charges	
Per Lift	\$100.00
Per Yard	\$12.50
Delivery Charge	\$150.00
Container Exchange Charge	\$150.00
Trip Charge (Unable to Service)	\$25.00
Removal Fee	\$150.00
Customer Service Assisted Payment Charge	\$8.00
Administrative Fee	\$4.00

THE UNDERSIGNED INDIVIDUAL SIGNING THIS AGREEMENT ON BEHALF OF CUSTOMER ACKNOWLEDGES THAT HE/SHE HAS READ AND UNDERSTANDS THE TERMS AND CONDITIONS OF THIS AGREEMENT, ON THE SECOND PAGE, AND THAT HE/SHE HAS THE AUTHORITY TO SIGN ON BEHALF OF THE CUSTOMER

-TERMS: DUE UPON RECEIPT -

CUSTOMER	
AUTHORIZED SIGNATURE	<i>Kathy Keiser</i>
TITLE	Exec. Director
NAME (PRINT OR TYPE)	KATHY KEISER
COMPANY	RM House
AUTHORIZED SIGNATURE	<i>Marcus Coriell</i>
TERRITORY #	
DATE	4/10/12

Anthony



SERVICE AGREEMENT
NON-HAZARDOUS WASTES

Waste Management of North Dakota, Inc.
W132 N10487 Grant Drive
Germantown, WI 53022

Commercial Service Agreement
Terms And Conditions

1. SERVICES RENDERED; WASTE MATERIALS. Customer grants to Company the exclusive right, and Company shall furnish equipment and services, to collect and dispose of and/or recycle all of Customer's Waste Materials. Customer represents and warrants that the materials to be collected under this Agreement shall be only "Waste Materials" as defined herein. For purposes of this Agreement, "Waste Materials" means all non-hazardous solid waste and Recyclable Materials generated by Customer or at Customer's Service Address. Waste Materials includes Special Waste, such as industrial process wastes, asbestos containing material, petroleum contaminated soils, treated/de-characterized wastes, and demolition debris, but Customer shall complete a Waste Profile for such Special Waste which has been approved by Company in writing. Recyclable Materials shall include any type of material that can be recycled or recovered whether separated or not separated from other Waste Materials prior to collection. Waste Materials specifically excludes, and Customer agrees not to deposit or permit the deposit for collection of, any waste fires, radioactive, volatile, corrosive, flammable, explosive, biomedical, infectious, biohazardous, regulated medical or hazardous waste, toxic substance or material, as defined by, characterized or listed under applicable federal, state, or local laws or regulations, or Special Waste not approved in writing by Company (collectively, "Excluded Materials"). Title to and liability for Excluded Material shall remain with Customer at all times. Title to Waste Materials provided by Customer to Company is transferred to Company upon Company's receipt or collection unless otherwise provided in this Agreement or applicable law.

2. TERM. The term ("Term") of this Agreement is thirty-six (36) months from the Effective Date set forth above ("Initial Term"), which shall automatically renew thereafter for additional terms of thirty-six (36) months each ("Renewal Term") unless either party gives to the other party written notice (See Section 10(e)) of termination at least ninety (90) days, but not more than one hundred eighty (180) days, prior to the termination of the then-existing term.

3. SERVICES GUARANTY; CUSTOMER TERMINATION. If the Company fails to perform the services described within five business days of its receipt of a written demand from Customer (See Section 10(e)), Customer may terminate this Agreement with the payment of all monies due through the termination date. If Company increases the Charges payable by Customer hereunder for reasons other than as set forth in Section 4 below, Customer shall have the right to terminate this Agreement by written notice to the Company no later than thirty (30) days after Company notifies Customer of such increase in Charges in writing. If Customer so notifies Company of its termination of this Agreement, such termination shall be of no force and effect if Company withdraws or removes such increase within fifteen (15) days after Customer provides timely notification of termination. Absent such termination, the increased Charges shall be binding and enforceable against Customer under this Agreement for the remaining Term.

4. CHARGES; PAYMENTS; ADJUSTMENTS. Upon receipt of an invoice, Customer shall pay for the services and/or equipment (including repair and maintenance) furnished by Company in accordance with the Charges on the first page, as it may be adjusted over the term of this Agreement as noted herein (the "Charges"). Company reserves the right to increase the Charges payable by Customer during the Term: (a) for any changes or modifications to, or differences between, the actual equipment and services provided by Company to Customer and the agreed upon Equipment/Service specifications on the first page; (b) any change in the composition of the Waste Materials or if the average weight per yard of Customer's Waste Materials exceeds the amount specified on the first page; (c) for any increase in or other modification to its fuel or environmental cost recovery charges; (d) to cover any increases in disposal and/or third party transportation costs; (e) to cover increased costs due to uncontrollable circumstances, including, without limitation, changes in local, state or federal laws or regulations, imposition of taxes, fees or surcharges or acts of God such as floods, fires, hurricanes and natural disasters; and (f) no more often than annually from the Effective Date (or if specified on the first page, Customer's Last API Date) for increases in the Consumer Price Index plus four percent of the then current Charges. Any increase in Charges enumerated in clauses (a) through (e) above may include an amount for Company's operating or gross profit margin. Company also reserves the right to charge Customer additional fees if the following additional services are provided to Customer: Administrative Fee, Enclosure Charge, Services on High Demand Days, Pull/Push Out Services, Container Relocation Fee, or Seasonal Restart Fee. In the event Company adjusts the Charges as provided in this Section 4, Customer and Company agree that this Agreement as so adjusted will continue in full force and effect for the remaining Term.

Any Customer invoice balance not paid within thirty (30) days of the date of invoice is subject to a late fee, and any Customer check returned for insufficient funds is subject to a NSF fee, both to the maximum extent allowed by applicable law. In the event that payment is not made when due, Company retains the right to suspend service until the past due balance is paid in full. In the event that service is suspended in excess of fifteen (15) days, Company may terminate this Agreement for such default and recover any equipment.

5. CHANGES. Changes in the frequency of collection service, schedule, number, capacity and/or type of equipment, may be agreed to orally, in writing, by payment of the invoice or by the actions and practices of the parties. If Customer changes its Service Address during the Term, this Agreement shall remain valid and enforceable with respect to services rendered at Customer's new service location if such location is within Company's service area.

6. EQUIPMENT, ACCESS. All equipment furnished by Company shall remain the property of Company; however, Customer shall have care, custody and control of the equipment and shall bear responsibility and liability for all loss or damage to the equipment and for its contents while at Customer's location. Customer shall not overload, move or alter the equipment and shall use the equipment only for its intended purpose. At the termination of this Agreement, Customer shall return the equipment to Company in the condition in which it was provided, normal wear and tear excepted. Customer shall provide unobstructed access to the equipment on the scheduled collection day. Customer shall pay, if charged by Company, an additional fee for any service modifications caused by or resulting from Customer's failure to provide access. Customer warrants that Customer's property is sufficient to bear the weight of Company's equipment and vehicles and that Company shall not be responsible for any damage to the Customer's property resulting from the provision of services.

7. LIQUIDATED DAMAGES. In the event Customer terminates this Agreement prior to the expiration of the Term for any reason other than as set forth in Section 3, or in the event Company terminates this Agreement for Customer's default, Customer shall pay the following liquidated damages in addition to the Company's legal fees: (a) if the remaining Initial Term under this Agreement is six or more months, Customer shall pay its most recent monthly Charges multiplied by six; (b) if the remaining Initial Term under this Agreement is less than six months, Customer shall pay its most recent monthly Charges multiplied by the number of months remaining in the Term; (c) if the remaining Renewal Term under this Agreement is three or more months, Customer shall pay its most recent monthly Charges multiplied by three; or (d) if the remaining Renewal Term under this Agreement is less than three months, Customer shall pay its most recent monthly Charges multiplied by the number of months remaining in the Renewal Term. Customer acknowledges that the actual damage to Company in the event of termination is difficult to fix or prove, and the foregoing liquidated damages amount is reasonable and commensurate with the anticipated loss to Company resulting from such termination and is an agreed upon fee and is not imposed as a penalty. Customer shall pay liquidated damages of \$100 for every Customer waste tire that is found at the disposal facility.

8. INDEMNITY. The Company agrees to indemnify, defend and save Customer harmless from and against any and all liability which Customer may be responsible for or pay out as a result of bodily injuries (including death), property damage, or any violation or alleged violation of law, to the extent caused by any negligent act, negligent omission or willful misconduct of the Company or its employees, which occurs (a) during the collection or transportation of Customer's Waste Materials, or (b) as a result of the disposal of Customer's Waste Materials in a facility owned by the Company or a subsidiary of Waste Management, Inc., provided that the Company's indemnification obligations will not apply to occurrences involving Excluded Materials.

Customer agrees to indemnify, defend and save the Company harmless from and against any and all liability which the Company may be responsible for or pay out as a result of bodily injuries (including death), property damage, or any violation or alleged violation of law to the extent caused by Customer's breach of this Agreement or by any negligent act, negligent omission or willful misconduct of the Customer or its employees, agents or contractors in the performance of this Agreement or Customer's use, operation or possession of any equipment furnished by the Company.

Neither party shall be liable to the other for consequential, incidental or punitive damages arising out of the performance of this Agreement.

9. RIGHT OF FIRST REFUSAL. Customer grants to Company a right of first refusal to match any offer relating to services similar to those provided hereunder which Customer receives (or intends to make) upon termination of this Agreement for any reason and Customer shall give Company prompt written notice of any such offer and a reasonable opportunity to respond to it.

10. MISCELLANEOUS. (a) Except for the obligation to make payments hereunder, neither party shall be in default for its failure to perform or delay in performance caused by events or significant threats of events beyond its reasonable control, whether or not foreseeable, including, but not limited to, strikes, labor trouble, riots, imposition of laws or governmental orders, fires, acts of war or terrorism, acts of God, and the inability to obtain equipment, and the affected party shall be excused from performance during the occurrence of such events. (b) This Agreement shall be binding on and shall inure to the benefit of the parties hereto and their respective successors and assigns. (c) This Agreement represents the entire agreement between the parties and supersedes any and all other agreements, whether written or oral, that may exist between the parties. (d) This Agreement shall be construed in accordance with the law of the state in which the services are provided. (e) All written notification to Company required by this Agreement shall be by Certified Mail, Return Receipt Requested. (f) Any blanks or unfilled or unmarked boxes or spaces on this first page shall be deemed to be inapplicable and not affect the validity of this Agreement. (g) If any provision of this Agreement is declared invalid or unenforceable, then such provision shall be severed from and shall not affect the remainder of this Agreement; however, the parties shall amend this Agreement to give effect, to the maximum extent allowed, to the intent and meaning of the severed provision. (h) In the event the Company successfully enforces its rights against Customer hereunder, the Customer shall be required to pay the Company's attorneys' fees and court costs.

Details:

10/31 first call to WMgt (1-800-960-0008) – I spoke with Camille about cancelling our contract and was informed that according to the contract that I signed, we couldn't cancel it until April of 2012. When I questioned ever signing their contract in the first place, Camille then emailed me a copy of the contract that I signed 4/10/12 that had automatically renewed for 36 month terms, without notice to me. Current end of contract is end of April 2021 according to Camille. According to the contract's term (#2), "written notice of termination can be given at least 90 days, but not more than 180 days prior to the termination of the then existing term." (copy attached).

10/31 transferred to Anthony who questioned me about the rates that I was able to secure from a new vendor and he emailed me a new contract with a reduced fee, which was still more than the offer from our other vendor. I did not respond.

11/7 Phone call from Anthony again, asking me about signing the contract and I told him that I refused to sign anything else from them and that I would pursue other options. I also told him that they were holding their customers hostage with these auto-renewing contracts. I do have to admit that he was very polite in all of my conversations with him. After our phone call, he electronically withdrew the earlier contract that he had sent. (copy of the contract cover email and subsequent withdrawal attached – could not print a copy of the contract after it had been withdrawn.) I have not had further contact from them. The Ronald McDonald House is on an auto-payment plan, so our account with them is current.

Facts and Circumstances

I contacted Waste Management on 10/31 about cancelling the Ronald McDonald House service agreement with them, because of rising rates and excessive "overage" charges. Our Customer ID is 4-09303-43009 and our physical address is 609 N. 7th St., Bismarck, ND 58501. I initially spoke with Camille at W Mgt and she informed me that I had signed a contract in 2012, that renews automatically every 3 years and that I would not be able to cancel my current contract until April of 2021. I have not been notified, or given the opportunity to renew/cancel this agreement since the 2012 date - it just happens automatically. I told Camille and then Anthony at W Mgt that I have found a local contractor that would provide the same service for \$75/month (after a \$30/month donation to RMHC) compared to our most recent bill of \$168.33). Camille did tell me that I could break my contract with a penalty of 3 times our most current bill - total charge of \$504.99. I was also referred to Anthony who emailed me new contract on 10/31/18 at a slightly reduced rate - a little over \$100, as I remember. I did not respond to this email bid, and when he called to follow up the next week, I told him that I would not sign anything else from WM. He then had the new contract withdrawn electronically on 11/7/18. I have attached a copy of his cover email and the follow-up voided contract. I do not have a copy of the substitute contract.

I think that it's inappropriate that once you sign a contract with Waste Management, it automatically rolls over without any notice that your 3 years is up and that you only have a narrow window of opportunity to get out of the contract. And even if a person keeps track of the anniversary date, W Mgt still has a "right of first refusal" clause (#9) that gives them the opportunity to match another offer – even if a customer wants to cancel their contract due to rising prices, etc. I've attached a copy of this page of their contract, too.



Cheryl Riley
President, External Affairs
Northern Plains States

AT&T Services, Inc.
3709 W. 41st St.
Sioux Falls SD 57106

HB 1195
1.30.19
Attachment 5
M: 307.365.1379
CR6557@att.com
www.att.com

January 30, 2019

House Bill 1195

Hon. George Keiser, Chair

House Industry, Business and Labor Committee

Mr. Chairman and Members of the Committee,

My name is Cheryl Riley, and I'm President of AT&T Northern Plains.

AT&T has concerns about HB 1195 regarding contract auto renewals. The way the bill is drafted, AT&T would have difficulties managing our month-to-month renewals for both our Mobility customers and our DirecTV customers. Furthermore, the bill requires a customer to initial each clause in the terms and conditions of a contract, a requirement that would be extremely burdensome as many of our customer interactions occur electronically or over the phone. Finally, requiring notice by registered mail does not align with how AT&T interacts with a majority of our customers.

For these reasons, and others, we are supportive of the proposed amendment being offered by the Prime Sponsor.

Thank you for your consideration.

Sincerely,

Cheryl Riley
AT&T President External Affairs, Northern Plains States

HB 1195 3/1/19 AA#1

19.0455.02001
Title.

Prepared by the Legislative Council staff for
Representative Keiser
February 28, 2019

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1195

Page 4, line 19, remove "A business that complies in good faith with the provisions of this"

Page 4, remove line 20

Re-number accordingly

HB 1195 3/11/19 Att #2 p.1



**SERVICE AGREEMENT
NON-HAZARDOUS WASTES**

Waste Management of North Dakota, Inc.
W132 N10487 Grant Drive
Germantown, WI 53022

SIC Code	8399
Type of Business	COMMERCIAL

WM AGREEMENT#	
CUSTOMER ACCT#	506-0002018
ACCT. NAME	RONALD MCDONALD HOUSE
SERV. ADDR	609 7TH ST N
CITY, ST, Zip	BISMARCK, ND 58501-3927
COUNTY/Parish	5BURL
TEL #	(701) 258 - 8551
FAX	
CONTACT	KATHY KEISER
E-MAIL	kkaiser@btlnet.net

REASON CODE	RENEWAL - NEW AGREEMENT
EFFECTIVE DATE	4/15/12
LAST API DATE	07/29/2011
BILL. NAME	RONALD MCDONALD HOUSE
BILL. ADDR	PO BOX 7323
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COUNTY/Parish	5BURL
TEL #	(701) 258 - 8551
FAX	
CONTACT	KATHY KEISER
E-MAIL	kkaiser@btlnet.net

EQUIPMENT/SERVICE SPECIFICATIONS -

NEW										Schedule & Route No.							Charge(s)*
Loc.	Sys	Qty	Size	Lids	Whls	Lock	Freq	OC	M	T	W	Th	F	S	S		
	2FL	1.00	2.0	N	N	N	1			C2A4						\$ 44.00 /mth	

Enter Map Code/ Driver Notes/Cross Roads/Container Description Here Total \$ 44.00/Mth

OLD										Schedule & Route No.							Charge(s)*
Loc.	Sys	Qty	Size	Lids	Whls	Lock	Freq	OC	M	T	W	Th	F	S	S		

To be completed, if applicable. Any blanks or unfilled or unmarked boxes or spaces shall be deemed to be inapplicable and not affect the validity of this Agreement:

Container pull/push out required?	(No/Yes)
Container behind gate or enclosure?	(No/Yes)
Customer's Waste Materials does not exceed an average weight of	27 lbs/yard

*A fuel surcharge and environmental cost recovery charge, calculated as a percentage of the Charge(s), will be included on your invoice. Information about the Fuel/Environmental Charge can be found on our website at www.wm.com under billing inquiry. State and Local Taxes, if applicable, will also be added to the Charges.

If applicable to your account the Recycle Material Offset fee(RMO/RML) may vary from month to month based on the recyclable material commodity market conditions. The charge printed on this agreement represents the current fee and market conditions.

Total
Net/Change

Other applicable service terms (including Waste Material composition): Enter Special Instructions and Set Up Comments Here

CUSTOMER DEPOSIT	
P.O. NUMBER	
JOB NUMBER	
RECEIPT REQUIRED?	No (Yes/No)
TAXABLE	(Yes/No)
BILL TO ACCT #	
DISPOSAL SITE	

SCHEDULE OF CHARGES AS REQUIRED*	
Container Usage Fee	\$
Locks	\$
Overage Charge	\$50.00
Extra Pickup Charges	
Per LIR	\$100.00
Per Yard	\$12.50
Delivery Charge	\$150.00
Container Exchange Charge	\$150.00
Trip Charge (Unable to Service)	\$25.00
Removal Fee	\$150.00
Customer Service Assisted Payment Charge	\$8.00
Administrative Fee	\$4.00

THE UNDERSIGNED INDIVIDUAL SIGNING THIS AGREEMENT ON BEHALF OF CUSTOMER ACKNOWLEDGES THAT HE/SHE HAS READ AND UNDERSTANDS THE TERMS AND CONDITIONS OF THIS AGREEMENT, ON THE SECOND PAGE, AND THAT HE/SHE HAS THE AUTHORITY TO SIGN ON BEHALF OF THE CUSTOMER

-TERMS DUE UPON RECEIPT -

CUSTOMER	
AUTHORIZED SIGNATURE	<i>Kathy Keiser</i>
TITLE	Exec. Director
DATE	4/10/12
NAME (PRINT OR TYPE)	KATHY KEISER
COMPANY	Rm House
AUTHORIZED SIGNATURE	<i>Marcia Conner</i>
TERRITORY #	
DATE	

Anthony

HB 1195 3/11/19 AH# 2
P.2



**SERVICE AGREEMENT
NON-HAZARDOUS WASTES**

Waste Management of North Dakota, Inc.
W132 N10487 Grant Drive
Gemantown, WI 53022

**Commercial Service Agreement
Terms And Conditions**

1. **SERVICES RENDERED; WASTE MATERIALS.** Customer grants to Company the exclusive right, and Company shall furnish equipment and services, to collect and dispose of and/or recycle all of Customer's Waste Materials. Customer represents and warrants that the materials to be collected under this Agreement shall be only "Waste Materials" as defined herein. For purposes of this Agreement, "Waste Materials" means all non-hazardous solid waste and Recyclable Materials generated by Customer or at Customer's Service Address. Waste Materials includes Special Waste, such as industrial process wastes, asbestos containing material, petroleum contaminated soils, treated/de-characterized wastes, and demolition debris, but Customer shall complete a Waste Profile for such Special Waste which has been approved by Company in writing. Recyclable Materials shall include any type of material that can be recycled or recovered whether separated or not separated from other Waste Materials prior to collection. Waste Materials specifically excludes, and Customer agrees not to deposit or permit the deposit for collection of, any waste tires, radioactive, volatile, corrosive, flammable, explosive, biomedical, infectious, biohazardous, regulated medical or hazardous waste, toxic substance or material, as defined by, characterized or listed under applicable federal, state, or local laws or regulations, or Special Waste not approved in writing by Company (collectively, "Excluded Materials"). Title to and liability for Excluded Material shall remain with Customer at all times. Title to Waste Materials provided by Customer to Company is transferred to Company upon Company's receipt or collection unless otherwise provided in this Agreement or applicable law.

2. **TERM.** The term ("Term") of this Agreement is thirty-six (36) months from the Effective Date set forth above ("Initial Term"), which shall automatically renew thereafter for additional terms of thirty-six (36) months each ("Renewal Term") unless either party gives to the other party written notice (See Section 10(e)) of termination at least ninety (90) days, but not more than one hundred eighty (180) days, prior to the termination of the then-existing term.

3. **SERVICES GUARANTY; CUSTOMER TERMINATION.** If the Company fails to perform the services described within five business days of its receipt of a written demand from Customer (See Section 10(e)), Customer may terminate this Agreement with the payment of all monies due through the termination date. If Company increases the Charges payable by Customer hereunder for reasons other than as set forth in Section 4 below, Customer shall have the right to terminate this Agreement by written notice to the Company no later than thirty (30) days after Company notifies Customer of such increase in Charges in writing. If Customer so notifies Company of its termination of this Agreement, such termination shall be of no force and effect if Company withdraws or removes such increase within fifteen (15) days after Customer provides timely notification of termination. Absent such termination, the increased Charges shall be binding and enforceable against Customer under this Agreement for the remaining Term.

4. **CHARGES; PAYMENTS; ADJUSTMENTS.** Upon receipt of an invoice, Customer shall pay for the services and/or equipment (including repair and maintenance) furnished by Company in accordance with the Charges on the first page, as it may be adjusted over the term of this Agreement as noted herein (the "Charges"). Company reserves the right to increase the Charges payable by Customer during the Term: (a) for any changes or modifications to, or differences between, the actual equipment and services provided by Company to Customer and the agreed upon Equipment/Service specifications on the first page; (b) any change in the composition of the Waste Materials or if the average weight per yard of Customer's Waste Materials exceeds the amount specified on the first page; (c) for any increase in or other modification to its fuel or environmental cost recovery charges; (d) to cover any increases in disposal and/or third party transportation costs; (e) to cover increased costs due to uncontrollable circumstances, including, without limitation, changes in local, state or federal laws or regulations, imposition of taxes, fees or surcharges or acts of God such as floods, fires, hurricanes and natural disasters; and (f) no more often than annually from the Effective Date (or if specified on the first page, Customer's Last API Date) for increases in the Consumer Price Index plus four percent of the then current Charges. Any increase in Charges enumerated in clauses (a) through (e) above may include an amount for Company's operating or gross profit margin. Company also reserves the right to charge Customer additional fees if the following additional services are provided to Customer: Administrative Fee, Enclosure Charge, Services on High Demand Days, Pull/Push Out Services, Container Relocation Fee, or Seasonal Restart Fee. In the event Company adjusts the Charges as provided in this Section 4, Customer and Company agree that this Agreement as so adjusted will continue in full force and effect for the remaining Term.

Any Customer invoice balance not paid within thirty (30) days of the date of invoice is subject to a late fee, and any Customer check returned for insufficient funds is subject to a NSF fee, both to the maximum extent allowed by applicable law. In the event that payment is not made when due, Company retains the right to suspend service until the past due balance is paid in full. In the event that service is suspended in excess of fifteen (15) days, Company may terminate this Agreement for such default and recover any equipment.

5. **CHANGES.** Changes in the frequency of collection service, schedule, number, capacity and/or type of equipment, may be agreed to orally, in writing, by payment of the invoice or by the actions and practices of the parties. If Customer changes its Service Address during the Term, this Agreement shall remain valid and enforceable with respect to services rendered at Customer's new service location if such location is within Company's service area.

6. **EQUIPMENT, ACCESS.** All equipment furnished by Company shall remain the property of Company; however, Customer shall have care, custody and control of the equipment and shall bear responsibility and liability for all loss or damage to the equipment and for its contents while at Customer's location. Customer shall not overload, move or alter the equipment and shall use the equipment only for its intended purpose. At the termination of this Agreement, Customer shall return the equipment to Company in the condition in which it was provided, normal wear and tear excepted. Customer shall provide unobstructed access to the equipment on the scheduled collection day. Customer shall pay, if charged by Company, an additional fee for any service modifications caused by or resulting from Customer's failure to provide access. Customer warrants that Customer's property is sufficient to bear the weight of Company's equipment and vehicles and that Company shall not be responsible for any damage to the Customer's property resulting from the provision of services.

7. **LIQUIDATED DAMAGES.** In the event Customer terminates this Agreement prior to the expiration of the Term for any reason other than as set forth in Section 3, or in the event Company terminates this Agreement for Customer's default, Customer shall pay the following liquidated damages in addition to the Company's legal fees: (a) if the remaining Initial Term under this Agreement is six or more months, Customer shall pay its most recent monthly Charges multiplied by six; (b) if the remaining Initial Term under this Agreement is less than six months, Customer shall pay its most recent monthly Charges multiplied by the number of months remaining in the Term; (c) if the remaining Renewal Term under this Agreement is three or more months, Customer shall pay its most recent monthly Charges multiplied by three; or (d) if the remaining Renewal Term under this Agreement is less than three months, Customer shall pay its most recent monthly Charges multiplied by the number of months remaining in the Renewal Term. Customer acknowledges that the actual damage to Company in the event of termination is difficult to fix or prove, and the foregoing liquidated damages amount is reasonable and commensurate with the anticipated loss to Company resulting from such termination and is an agreed upon fee and is not imposed as a penalty. Customer shall pay liquidated damages of \$100 for every Customer waste tire that is found at the disposal facility.

8. **INDEMNITY.** The Company agrees to indemnify, defend and save Customer harmless from and against any and all liability which Customer may be responsible for or pay out as a result of bodily injuries (including death), property damage, or any violation or alleged violation of law, to the extent caused by any negligent act, negligent omission or willful misconduct of the Company or its employees, which occurs (a) during the collection or transportation of Customer's Waste Materials, or (b) as a result of the disposal of Customer's Waste Materials in a facility owned by the Company or a subsidiary of Waste Management, Inc., provided that the Company's indemnification obligations will not apply to occurrences involving Excluded Materials.

Customer agrees to indemnify, defend and save the Company harmless from and against any and all liability which the Company may be responsible for or pay out as a result of bodily injuries (including death), property damage, or any violation or alleged violation of law to the extent caused by Customer's breach of this Agreement or by any negligent act, negligent omission or willful misconduct of the Customer or its employees, agents or contractors in the performance of this Agreement or Customer's use, operation or possession of any equipment furnished by the Company.

Neither party shall be liable to the other for consequential, incidental or punitive damages arising out of the performance of this Agreement.

9. **RIGHT OF FIRST REFUSAL.** Customer grants to Company a right of first refusal to match any offer relating to services similar to those provided hereunder which Customer receives (or intends to make) upon termination of this Agreement for any reason and Customer shall give Company prompt written notice of any such offer and a reasonable opportunity to respond to it.

10. **MISCELLANEOUS.** (a) Except for the obligation to make payments hereunder, neither party shall be in default for its failure to perform or delay in performance caused by events or significant threats of events beyond its reasonable control, whether or not foreseeable, including, but not limited to, strikes, labor trouble, riots, imposition of laws or governmental orders, fires, acts of war or terrorism, acts of God, and the inability to obtain equipment, and the affected party shall be excused from performance during the occurrence of such events. (b) This Agreement shall be binding on and shall inure to the benefit of the parties hereto and their respective successors and assigns. (c) This Agreement represents the entire agreement between the parties and supersedes any and all other agreements, whether written or oral, that may exist between the parties. (d) This Agreement shall be construed in accordance with the law of the state in which the services are provided. (e) All written notification to Company required by this Agreement shall be by Certified Mail, Return Receipt Requested. (f) Any blanks or unfilled or unmarked boxes or spaces on this first page shall be deemed to be inapplicable and not affect the validity of this Agreement. (g) If any provision of this Agreement is declared invalid or unenforceable, then such provision shall be severed from and shall not affect the remainder of this Agreement; however, the parties shall amend this Agreement to give effect, to the maximum extent allowed, to the intent and meaning of the severed provision. (h) In the event the Company successfully enforces its rights against Customer hereunder, the Customer shall be required to pay the Company's attorneys' fees and court costs.

Facts and Circumstances

I contacted Waste Management on 10/31 about cancelling the Ronald McDonald House service agreement with them, because of rising rates and excessive "overage" charges. Our Customer ID is 4-09303-43009 and our physical address is 609 N. 7th St., Bismarck, ND 58501. I initially spoke with Camille at W Mgt and she informed me that I had signed a contract in 2012, that renews automatically every 3 years and that I would not be able to cancel my current contract until April of 2021. I have not been notified, or given the opportunity to renew/cancel this agreement since the 2012 date - it just happens automatically. I told Camille and then Anthony at W Mgt that I have found a local contractor that would provide the same service for \$75/month (after a \$30/month donation to RMHC) compared to our most recent bill of \$168.33). Camille did tell me that I could break my contract with a penalty of 3 times our most current bill - total charge of \$504.99. I was also referred to Anthony who emailed me new contract on 10/31/18 at a slightly reduced rate - a little over \$100, as I remember. I did not respond to this email bid, and when he called to follow up the next week, I told him that I would not sign anything else from WM. He then had the new contract withdrawn electronically on 11/7/18. I have attached a copy of his cover email and the follow-up voided contract. I do not have a copy of the substitute contract.

I think that it's inappropriate that once you sign a contract with Waste Management, it automatically rolls over without any notice that your 3 years is up and that you only have a narrow window of opportunity to get out of the contract. And even if a person keeps track of the anniversary date, W Mgt still has a "right of first refusal" clause (#9) that gives them the opportunity to match another offer - even if a customer wants to cancel their contract due to rising prices, etc. I've attached a copy of this page of their contract, too.

SENATE INDUSTRY, BUSINESS AND LABOR COMMITTEE
JERRY KLEIN, CHAIRMAN
MARCH 11, 2019

TESTIMONY BY
PARRELL D. GROSSMAN
DIRECTOR, CONSUMER PROTECTION AND ANTITRUST DIVISION
OFFICE OF ATTORNEY GENERAL
IN SUPPORT OF
ENGROSSED HOUSE BILL NO. 1195

Mr. Chairman and members of the Senate Industry, Business and Labor Committee. I am Parrell Grossman, and it is my privilege to be the Director of the Attorney General's Consumer Protection and Antitrust Division. I appear on behalf of the Attorney General in support of Engrossed House Bill 1195, with a proposed amendment approved by Representative George Keiser.

The Attorney General's Office is very pleased with Representative Keiser's proposed legislation to address issues and consumer complaints regarding the use of automatic contract renewals.

The Consumer Protection Division has received numerous complaints from consumers over previous years regarding some abuses of automatic renewals in contracts. We do not suggest that such provisions are not suitable in general or are not used appropriately by many businesses. However, these provisions have been a problem for North Dakota consumers when the terms are not clearly and conspicuously disclosed or are applied for an automatic renewal term of an excessive term, typically between one and three years.

This legislation will address, and hopefully, reduce or eliminate such concerns for our consumers and your constituents.

For background purposes, the Consumer Protection Division recently concluded a review or investigation with an entity providing services and using automatic contract renewals for its services. This was a service in which there was not a great deal of competition in some areas, particularly some rural areas. This business was using a three year automatic renewal period with some strict requirements for cancelling at an appropriate time. Customers often did not realize this and missed the window for cancellation, resulting in an automatic renewal of those services for a three year period, without the ability to shop for or obtain competing services.

This particular business typically addressed complaints filed with the Consumer Protection Division, but likely only for those consumers that did so. Then, they became more firm in their position of enforcing the contracts in some instances. Ultimately, the Attorney General was prepared to take legal action and, instead, provided the business an opportunity to change its automatic contract renewal terms etc. We ultimately were

very pleased with that cooperation and we did not initiate any legal action. Without this legislation, that enforcement could have been very difficult. This business was not the only entity with problematic automatic renewal terms.

The Attorney General had considered possible legislation in this area in the past. Therefore, when Representative Keiser became aware of concerns, he initiated this legislation and it is most welcome and appropriate for the reasons mentioned.

This law will provide some new "rules of the road" in the area of automatic renewals and is not unique to North Dakota.

It is very straightforward in defining the plan, requiring clear and conspicuous notice to consumers that will allow consumers the opportunity to cancel the contract if desired, and then prohibiting any automatic renewal for a period in excess of twelve months. It provides remedies for consumers and enforcement by the Attorney General.

However, the Attorney General has serious concerns with one provision in this legislation, which was added after it was introduced. Fortunately, Representative Keiser immediately recognized the issue and agreed to the amendment.

The offending language is on page 4, lines 19-20 in the "Private enforcement" section and states: "A business that complies in good faith with the provisions of this chapter is immune from civil liability."

Unfortunately, that language will make the statute almost unenforceable by the Attorney General's Consumer Protection Division.

Currently there are no other consumer protection statutes that limit the Attorney General's enforcement authority with an ambiguous "good faith" standard. If the statute is enacted, either companies are required to comply with it or they are not. In every complaint or investigation, the automatic defense would be "good faith" and establishing the existence or nonexistence of "good faith" could become very resource intensive. This possibly could necessitate actions including a review of the company's policies, e-mails, training procedures, conducting interviews, etc. in order to determine that standard and any violation.

This issue would become a huge proof problem requiring the Attorney General to prove subjective intent and the Attorney General could quickly get bogged down in whether the matter is worth pursuing.

Inserting this new standard for consumer protection enforcement would become a slippery slope for all future consumer protection statutes, and would dramatically alter enforcement, including whether to even enforce some such statutes.

The Attorney General already exercises discretion upfront in determining whether to investigate any violations of consumer fraud statutes and it will be the same for this

statute, if enacted. The case I described above was quite concerning and, yet, the Attorney General resolved it without any fines or civil penalties, etc. because the business fully cooperated.

If the Attorney General needs to investigate, it probably is a matter of a pattern of conduct by the entity and the “good faith” would only seem to add an additional burden for acting on behalf of the State.

Furthermore, the current wording is very broad and makes the perpetrator or actor immune from all civil liability, not just civil liability under this chapter.

The Attorney General applauds this legislation as a solution to a long-standing concern for North Dakota consumers and hopes the awareness of these requirements will take care of the concerns.

The Attorney General respectfully recommends that the Senate Industry, Business & Labor Committee give Engrossed House Bill 1195 a “Do Pass” recommendation with the proposed amendment.

Thank you for your time and consideration. I would be pleased to try and answer any questions.

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p.4

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1195
SENATE INDUSTRY, BUSINESS, AND LABOR COMMITTEE
JERRY KLEIN, CHAIRMAN
MARCH 11, 2019

Page 4, line 19, remove "A business that complies in good faith with the provisions of this"

Page 4, remove line 20

HB 1195 3/11/19 ATT#4



Cheryl Riley
President, External Affairs
Northern Plains States

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March 10, 2019

House Bill 1195

Hon. Jerry Klein

Senate Industry, Business and Labor Committee

Mr. Chairman and Members of the Committee,

My name is Cheryl Riley, and I'm President of AT&T Northern Plains.

AT&T has worked with Chairman Keiser on HB 1195 regarding contract auto renewals. As amended in the House, AT&T is neutral on the bill and has appreciated the hard work of the House Industry, Business and Labor Committee to address the original concerns that we had. Thank you for the opportunity to provide feedback to the Committee.

Sincerely,

Cheryl Riley
AT&T President External Affairs, Northern Plains States