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HOUSE OF REPRESENTATIVES
151st GENERAL ASSEMBLY

HOUSE SUBSTITUTE NO. 1
FOR
HOUSE BILL NO. 96

AN ACT TO AMEND TITLE 6 OF THE DELAWARE CODE RELATING TO CONSUMER CONTRACTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend, § 2731, Title 6 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 § 2731. Definitions.

4 ~~As used in~~ For purposes of this subchapter:

5 (1) "Consumer" means an individual who purchases or leases merchandise primarily for personal, ~~family~~
6 family, or household purposes.

7 (2) "Lease" means any lease, offer to ~~lease~~ lease, or attempt to lease any merchandise.

8 (3) "Merchandise" means any objects, wares, goods, commodities, intangibles, ~~real estate~~ real estate, or
9 services, other than insurance.

10 (4) "Person" means an individual, corporation, government or governmental subdivision or agency, statutory
11 trust, business trust, estate, trust, partnership, unincorporated association, 2 or more of any of the foregoing having a
12 joint or common ~~interest~~ interest, or any other legal or commercial entity.

13 (5) "Residential waste" means as defined in § 6052 of Title 7.

14 ~~(5)(6)~~ (6) "Sale" means any sale, offer for ~~sale~~ sale, or attempt to sell any merchandise for cash or credit.

15 (7) "Solid waste collection services" means as regulated under Chapter 60 of Title 7.

16 Section 2. Amend § 2734, Title 6 of the Delaware Code by making deletions as shown by strike through and
17 insertions as shown by underline as follows:

18 § 2734. Remedies.

(a) Any person who engages in a deceptive practice governed by this subchapter shall be liable to a consumer in an amount equal to treble the amount of actual damages proved, plus reasonable attorney's fees.

(b) A consumer likely to be damaged by a deceptive practice governed by this subchapter may be granted an injunction against it under the principles of equity and on terms the court considers reasonable.

(c) The remedies and penalties under this subchapter are not exclusive and are in addition to any other procedures, rights, or remedies which exist with respect to any other provisions of law including Subchapter II and Subchapter III of Chapter 25 of this title.

Section 3. Amend § 2736, Title 6 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2736. Enforcement.

~~In addition to any remedies a consumer may have at law or in equity, Chapter 25 of Title 29 shall apply to violations of this subchapter.~~

(a) The Attorney General has the same authority to enforce and carry out this subchapter as under Chapter 25 of Title 29.

(b) A violation of this subchapter shall be deemed an unlawful practice under § 2513 of this title and a violation of Subchapter II of Chapter 25 of this title.

Section 4. Amend Subchapter IV, Chapter 27, Title 6 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2737. Residential waste collection; unlawful practices.

(a) It is an unlawful practice for a person providing solid waste collection services for the collection of residential waste to charge or collect a fee in violation of this section.

(b) A person providing solid waste collection services to collect residential waste may not charge a fee in addition to the basic rate for the collection of waste, except for any of the following:

(1) Late payment or nonpayment of an amount due.

(2) Replacement of a lost or damaged container provided for the purpose of storage and collection of residential waste.

(3) Collection of waste that cannot be collected using the container provided by the solid waste collection service.

(c)(1) A contract to provide solid waste collection services to collect residential waste must prominently list the basic rate and each fee under subsection (b) of this section and the amount of or formula to calculate each fee.

49 (2) A bill that includes a fee under subsection (b) of this section must itemize the amount due and identify
50 each fee that is being charged in addition to the basic rate.

51 (3)a. A person providing solid waste collection services to collect residential waste must provide no less than
52 90 days notice before any of the following take effect:

53 1. The amount of a fee under paragraph (c)(1) of this section is increased.

54 2. A new fee under subsection (b) of this section is added.

55 3. The amount of the basic rate is increased.

56 4. The amount of a fee allowed under paragraph (d)(2) of this section is increased.

57 b. If an individual receives notice under paragraph (c)(3)a. of this section, the individual may terminate or
58 not renew the contract, with no additional fee or penalty, until the effective date of the change.

59 (d)(1) This section applies to contracts created, renewed, modified, altered, amended, or reissued after [the
60 effective date of this Act].

61 (2) Subsection (b) of this section does not prohibit a fee that was in a contract on [the enactment date of this
62 Act], until the contract is renewed, modified, altered, amended, or reissued under paragraph (d)(1) of this section.

63 Section 5. This Act takes effect 6 months after its enactment into law.

SYNOPSIS

House Bill No. 96 prohibits multiple service charges for residential trash collection service except if the charge is for any of the following:

1. Late or nonpayment of an amount due.
2. Replacement of a container.
3. Collecting waste that cannot be collected using the container.

House Substitute No. 1 for House Bill No. 96 differs from House Bill No. 96 as follows:

1. It clarifies that a bill may include multiple charges if the charges in addition to basic rate if each additional charge is in compliance with § 2737 of Title 6.
2. Requires that a contract list the basic rate and each additional charge and the amount of the charge.
3. Requires that all charges in a bill that includes a fee allowed under § 2737 of Title 6 be itemized.
4. Requires 90 days notice before a new fee is added, the amount of a fee increases, or the base rate increases and allows a consumer to terminate or not renew the contract with no penalty or additional fee.
5. Clarifies the applicability of this Act.

This Act also makes technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual.