

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

FIFTEENTH CONGRESS
Second Regular Session

House Bill No. 6334



Introduced by Congressman Lord Allan Jay Q. Velasco

EXPLANATORY NOTE

Whereas, mobile telephone contracts do not clearly and uniformly disclose to the customer the relevant terms and conditions, including charges, minutes, service plans, and taxes and surcharges.

Whereas, the current lack of clarity and uniformity in mobile telephone contracts and bills can lead to consumer confusion and can impede the delivery of basic information necessary for consumers to compare the cost of mobile telephone services offered by different carriers.

Whereas, competitive markets function properly only when consumers have access to accurate, meaningful information in a format that they readily understand.

Whereas, mobile telephone companies often charge early termination fees whenever a customer ends his or her service before the expiration of the contract. In many instances, the same fee is charged regardless of whether the contract is terminated a day or a year after it is signed so long as the contract period has not expired.

Whereas, the term of the contract is often extended whenever a customer makes a change in the service, so an early termination fee may apply years after a customer first subscribed to a company's service.

Whereas, early termination fees imposed in this way, do not bear a strong relationship to legitimate business practices such as recovery of the cost of a mobile telephone device.

Whereas, customers very often are unaware that their contracts can be, and in fact are extended based on changes, often minor changes, to their service; and modified in materially adverse ways.

In view of the foregoing, passage of this bill is hereby being earnestly sought.



LORD ALLAN JAY Q. VELASCO

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AN
ACT TO PROVIDE FULL DISCLOSURE AND EMPOWER CONSUMERS ENTERING
INTO MOBILE PHONE SERVICE

Be it enacted by the Senate and the House of Representatives in Congress assembled:

Section 1. *Short Title* – This act shall be known as “Mobile Phone Consumer Empowerment Act of 2011”

Section 2. *Declaration of Policy* – The State recognizes that telecommunications is vital to the economic development, integrity and security of the Philippines as provided for by Republic Act 7925. The same legislation similarly espouse that “Rates and tariff charges shall be fair, just and reasonable and for this purpose, the regulatory body shall develop tariff structures based on socioeconomic factors and on financial, technical and commercial criteria as measures to ensure a fair rate of return and as a tool to ensure economic and social development.”

The state also recognizes the need to protect the welfare of each end-user as consumers; shield them from deceptive, unfair and unconscionable acts and practices; provide information and education to facilitate sound choice and the proper exercise of rights by the consumer.

Section 3. *Administration* – The Department of Transportation and Communications (DOTC) through the National Telecommunications Commission shall be the primary government agency charged with the implementation of this law. Authority is similarly vested upon the DOTC to formulate the Implementing Rules and Regulations for this legislation.

Section 4. *Prorated Early Termination Fees* - The administrative authority shall promulgate implementing rules and regulations stating that early termination fees be prorated over the term of a subscriber's contract, in a method that realistically associates the fee to recovery of the cost of the device or other justifiable business expenses.

Section 5. *Contract Extension* - An extension of a contract for mobile telephone service shall be void, unless the mobile telephone service provider provides point-of-sale notice of the extension to the subscriber; and the subscriber may cancel the extension for any reason within thirty (30) days after the same notice is provided.

Section 6. *Cancellation Penalty* - If a subscriber cancels the extension of a contract for mobile telephone service within the thirty (30) days, the mobile telephone service provider shall not impose a penalty or other cost for the cancellation on the subscriber. A charge for mobile telephone service provided to the subscriber during the extension period before cancellation shall not be considered to be a penalty or cost of cancellation for purposes of this paragraph.

Section 7. *Notice of Modification* - A mobile telephone service provider shall provide subscribers with written notice of any change in rates, terms, or conditions of service at least thirty (30) days prior to such change is to take effect.

Any change in rates, terms, or conditions of service that will result in higher rates or more restrictions on service or otherwise result in a material, adverse change for a subscriber, such subscriber may, within the day of the date of effectivity of such change, terminate the service without penalty and receive a pro rata refund of the charges, if any, paid for the handset used for such service.

Section 8. *Contents of the Notice* - The mobile service provider shall inform the subscriber the following:

- a. The right of that subscriber to terminate the service and to a handset refund
- b. The procedures to be followed for such a termination.
- c. The subscriber's right of rescission

Section 9. *Subscriber's Right of Rescission* - a contract for mobile telephone service may be cancelled upon the request of a subscriber for any reason, thirty (30) days subsequent to the execution of the contract.

In the exercise of the right to rescission, there shall be no penalty or other costs to such subscriber for such rescission, except that such subscriber shall be responsible for the

cost of the mobile telephone service used during the time period the contract was in effect.

Upon the return of any handset purchased or leased pertaining to the purchase of mobile telephone service, a subscriber shall receive a pro-rated refund of any amount paid for the handset.

Section 10. *Separability Clause.* - Any portion or provisions of this Act that may be declared unconstitutional or invalid shall not have the effect of nullifying other portions or provisions hereof as long as such remaining portions or provisions can still subsist and be given effect in their entirety.

Section 11. *Repealing Clause.* - All laws, ordinances, rules, regulations, and other issuances or parts thereof, which are inconsistent with this Act are hereby repealed or modified accordingly.

Section 12. *Effectivity* – This act shall take effect fifteen days (15) after publication in at least two (2) national newspapers of general circulation.

Approved,