



**House
Legislative
Analysis
Section**

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FITNESS CLUB CONTRACTS

**House Bill 4027 (Substitute H-3)
First Analysis (9-19-90)**

**Sponsor: Rep. Nick Ciaramitaro
Committee: Consumers**

RECEIVED

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THE APPARENT PROBLEM:

People who have bought memberships in fitness clubs, health spas, and the like, and paid well in advance for access and services, have found themselves left without recourse when the facilities closed their doors with little or no warning. In some cases, reportedly, people bought "life memberships" in clubs that never actually began operations or in clubs that did not remain in business very long. Attempts to pursue the owners of these operations and get customers' money back have been futile, according to the attorney general's office. At the very least, consumers ought to be notified by fitness clubs when they purchase memberships that they are risking the loss of money if the club goes out of business and ought to be provided with information about the club that would allow them to determine its stability.

THE CONTENT OF THE BILL:

The bill would create the Physical Fitness Services Contract Act and would regulate prepaid or credit contracts between fitness clubs and similar entities and their customers. The bill would require that all such contracts be in writing and include an attachment stating the total assets, total debt, and number of years the service provider had been engaged in business. The customer would have the right to cancel the contract within three days after its execution and the contract would have to notify the customer of that right in language specified in the bill. Cancellation would have to be in writing and be hand delivered or sent by first-class mail to the address provided in the contract before midnight of the third business day after the contract was signed. The provider would have to return any payments within 45 days of receipt of the cancellation notice.

Each contract would also have to contain a notice in ten-point boldfaced type stating: "State law requires we inform you that when you (the customer) pay for any part of this agreement in advance, be aware that you are paying for future services and may be risking loss of your money in the event this future services provider ceases to conduct business. We are required by law to provide you with our total assets, total debt, and the number of years we have been in operation. That information is attached."

A contract for physical fitness services that did not comply with the provisions of this bill would be voidable by the customer. The bill defines "physical fitness services" as services or facilities that purport primarily to assist customers in physical exercise, in weight control, or in body or figure development, including, but not limited to, a fitness center, studio, salon, spa class or club, and athletic or sports club.

FISCAL IMPLICATIONS:

There is no information at present.

ARGUMENTS:

For:

Mich. State Law Library

The bill would require fitness clubs and similar organizations to provide customers with information that will allow them to make more informed judgments about whether to buy long-term memberships and with warnings that customers could lose money should the club go out of business. Customers would have to be provided with information about the financial assets and liabilities of the club and be told how long it had been in business. People will then be able to distinguish stable, viable, and reputable fitness clubs from those that are not. The bill also provides a three-day "cooling off" period for consumers, so that they have time to reflect on their decision to buy a membership, which may have been made in response to high pressure sales tactics.

Against:

An earlier version of the bill contained the requirement that a fitness club post with the state a bond of \$50,000 per location, so that customers could get their money back if a club went out of business. Further, the ability to obtain the bond would provide a kind of screening device to protect against undercapitalized businesses. Also, the original bill created a registration program for fitness clubs and imposed penalties on those who violated the bill's consumer protection provisions. The current bill simply requires clubs to warn people that they could lose their money if they pay in advance and offers them some information that they may or may not be able to interpret. Some people have advocated other measures, such as prohibiting the sale of "life memberships" and limiting the periods for which advance payments could be made.

POSITIONS:

The Association of Physical Fitness Centers supports the bill. (9-12-90)

The Michigan Consumers Council supports the bill. (9-12-90)

FILED 4027 (9-19-90)