



# House of Representatives

General Assembly

**File No. 152**

January Session, 2023

Substitute House Bill No. 5314

*House of Representatives, March 22, 2023*

The Committee on General Law reported through REP. D'AGOSTINO of the 91st Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## **AN ACT CONCERNING CONSUMER AGREEMENTS AND CONSUMER BILLS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2023*) (a) For the purposes of this  
2 section:

3 (1) "Automatic renewal provision" means any provision that is  
4 included in a consumer agreement under which a business that is a  
5 party to such agreement may renew such agreement without any action  
6 on the part of a consumer who is a party to such agreement;

7 (2) "Business" means any individual or sole proprietorship,  
8 partnership, firm, corporation, trust, limited liability company, limited  
9 liability partnership, joint stock company, joint venture, association or  
10 other legal entity through which commerce for profit or not for profit is  
11 conducted;

12 (3) "Consumer" means any individual who is a resident of this state

13 and a prospective recipient of consumer goods or consumer services;

14 (4) "Consumer agreement" means any verbal, telephonic, written or  
15 electronic agreement between a business and a consumer (A) under  
16 which a business agrees to provide consumer goods or consumer  
17 services to a consumer, and (B) that is initially entered into or amended  
18 on or after October 1, 2023;

19 (5) "Consumer good" means any article that is purchased, leased,  
20 exchanged or received primarily for personal, family or household  
21 purposes;

22 (6) "Consumer service" means any service that is purchased, leased,  
23 exchanged or received primarily for personal, family or household  
24 purposes; and

25 (7) "Continuous services provision" means any provision that is  
26 included in a consumer agreement under which a business that is a  
27 party to such agreement may continue to provide consumer services to  
28 a consumer who is a party to such agreement until the consumer takes  
29 action to prevent or terminate such business's provision of such  
30 consumer services under such agreement.

31 (b) (1) No business shall enter into, or offer to enter into, a consumer  
32 agreement with a consumer if such agreement includes an automatic  
33 renewal provision or a continuous services provision, unless:

34 (A) Such business establishes and maintains a toll-free telephone  
35 number, an electronic mail address or postal address, and the online  
36 means required under subsection (d) of this section, which the consumer  
37 may use to prevent automatic renewal or prevent or terminate  
38 continuous consumer services;

39 (B) Where such consumer agreement contains an automatic renewal  
40 provision, such business discloses to the consumer, electronically,  
41 verbally, telephonically or in writing in the manner specified in  
42 subdivision (2) of this subsection and before such consumer enters into  
43 such agreement, (i) that the business will automatically renew such

44 agreement until such consumer takes action to prevent such automatic  
45 renewal, (ii) a description of the actions such consumer is required to  
46 take to prevent any automatic renewal of such agreement and, if  
47 disclosed electronically, a link or other electronic means such consumer  
48 may use to take such actions as described in subsection (d) of this  
49 section, (iii) all recurring charges that will be charged to the consumer's  
50 credit card, debit card or third-party payment account for any automatic  
51 renewal of such agreement and, if the amount of such charges is subject  
52 to change, the amount of such change if known by such business, (iv)  
53 the length of any automatic renewal term for such agreement unless the  
54 consumer selects the length of such term, (v) any additional provisions  
55 concerning such renewal term, (vi) any minimum purchase obligation,  
56 and (vii) contact information for such business;

57 (C) Where such consumer agreement contains a continuous services  
58 provision, such business discloses to the consumer, electronically,  
59 verbally, telephonically or in writing in the manner specified in  
60 subdivision (2) of this subsection and before such consumer enters into  
61 such agreement, (i) that the business will provide continuous consumer  
62 services under such agreement until such consumer takes action to  
63 prevent or terminate such continuous consumer services, (ii) a  
64 description of the actions such consumer is required to take to prevent  
65 or terminate such continuous consumer services, (iii) all recurring  
66 charges that will be charged to the consumer's credit card, debit card or  
67 third-party payment account for such continuous consumer services  
68 and, if the amount of such charges is subject to change, the amount of  
69 such change if known by such business, (iv) the duration of such  
70 continuous consumer services, (v) any additional provisions concerning  
71 such continuous consumer services, (vi) any minimum purchase  
72 obligation, and (vii) contact information for such business;

73 (D) If such business intends to make any material change in the terms  
74 of such automatic renewal provision or continuous services provision,  
75 such business discloses to the consumer, electronically, verbally,  
76 telephonically or in writing in the manner specified in subdivision (2) of  
77 this subsection and before such business makes such material change,

78 the material change and a description of the actions such consumer is  
79 required to take to cancel such automatic renewal or terminate such  
80 continuous consumer services;

81 (E) If such consumer agreement includes a free gift or trial period,  
82 such business discloses to the consumer, electronically, verbally,  
83 telephonically or in writing in the manner specified in subdivision (2) of  
84 this subsection before such consumer enters into such agreement, (i) the  
85 price that such consumer will be charged following expiration of such  
86 period, and (ii) any manner in which the pricing for such agreement will  
87 change following expiration of such period; and

88 (F) (i) Except as provided in subparagraph (F)(iii) of this subdivision,  
89 if such consumer agreement is offered electronically or telephonically  
90 and includes a free gift or trial period, or a discounted or promotional  
91 price period, such business discloses to the consumer, electronically or  
92 telephonically in the manner specified in subdivision (2) of this  
93 subsection and not later than the time specified in subparagraph (F)(ii)  
94 of this subdivision, (I) that such business will automatically renew, or  
95 provide continuous consumer services under, such agreement until  
96 such consumer takes action to prevent such automatic renewal or  
97 prevent or terminate such continuous consumer services, (II) the  
98 duration of such automatic renewal term or continuous consumer  
99 services, (III) any additional provisions concerning such renewal term  
100 or continuous consumer services, (IV) a description of the actions such  
101 consumer is required to take to prevent such automatic renewal or  
102 prevent or terminate such continuous consumer services, and (V) if such  
103 agreement is offered electronically, a prominently displayed direct link  
104 or button, or an electronic mail message, required under subsection (d)  
105 of this section.

106 (ii) Except as provided in subparagraph (F)(iii) of this subdivision, if  
107 such business is required to make a disclosure pursuant to  
108 subparagraph (F)(i) of this subdivision, such business makes such  
109 disclosure (I) where the free gift or trial period, or discounted or  
110 promotional price period, is at least thirty-two days in duration, at least

111 twenty-one days after such period commences and not earlier than three  
112 days before such period expires, or (II) where the free gift or trial period,  
113 or discounted or promotional price period, is at least one year in  
114 duration, at least fifteen days but not more than forty-five days before  
115 such period expires.

116 (iii) Such business shall not be required to make the disclosure  
117 required under subparagraph (F)(i) or (F)(ii) of this subdivision if such  
118 business has not collected, or does not maintain, the consumer's  
119 electronic mail address or telephone number, as applicable, and is  
120 unable to make such disclosure to such consumer by other electronic  
121 means. For the purposes of subparagraphs (E) and (F) of this  
122 subdivision, "free gift" does not include a free promotional item or gift  
123 that a business gives to a consumer if such item or gift differs from the  
124 consumer goods or consumer services that are the subject of the  
125 consumer agreement between the business and the consumer.

126 (2) Each business that is required to make any disclosure under  
127 subdivision (1) of this subsection shall:

128 (A) If the consumer agreement is offered, or entered into,  
129 electronically or in writing, make such disclosure (i) in a manner that  
130 may be retained by the consumer, and (ii) in text that is (I) larger than  
131 the size of any surrounding text, or (II) the same size as the surrounding  
132 text but in a typeface, font or color that contrasts with such surrounding  
133 text or is set off from such surrounding text by symbols or other marks  
134 that draw the consumer's attention to such disclosure; or

135 (B) If the consumer agreement is offered, or entered into, verbally or  
136 telephonically, make such disclosure in a volume and cadence that is  
137 readily audible to, and understandable by, the consumer.

138 (c) No business that enters into, or offers to enter into, a consumer  
139 agreement that includes an automatic renewal provision or a  
140 continuous services provision shall charge the consumer's credit card,  
141 debit card or third-party payment account for any automatic renewal or  
142 continuous consumer services, regardless of whether such renewal or

143 continuous consumer services are offered or provided at a promotional  
144 or discounted price, unless such business has obtained such consumer's  
145 affirmative consent to such renewal or continuous consumer services.

146 (d) (1) Each business that enters into a consumer agreement online  
147 shall, if such agreement includes an automatic renewal provision or  
148 continuous services provision, allow the consumer to take any action  
149 necessary to prevent such automatic renewal or prevent or terminate  
150 such continuous consumer services online, at will and without requiring  
151 such consumer to take any offline action to prevent such automatic  
152 renewal or prevent or terminate such continuous consumer services. No  
153 business that is subject to the provisions of this subdivision shall take  
154 any action to obstruct or delay a consumer's efforts to prevent automatic  
155 renewal of, or prevent or terminate provision of continuous consumer  
156 services under, a consumer agreement pursuant to this subdivision.  
157 Each business that is subject to the provisions of this subdivision shall  
158 enable a consumer to prevent automatic renewal of, or prevent or  
159 terminate provision of continuous consumer services under, a consumer  
160 agreement pursuant to this subdivision by way of:

161 (A) A prominently displayed direct link or button, which may be  
162 located within the consumer's (i) account or profile, or (ii) device or user  
163 settings; or

164 (B) An electronic mail message from the business to the consumer,  
165 which is immediately accessible by the consumer and to which the  
166 consumer may reply without obtaining any additional information.

167 (2) Notwithstanding subdivision (1) of this subsection, a business  
168 may require a consumer who maintains an account with the business to  
169 enter the consumer's account information, or otherwise authenticate  
170 such consumer's identity, online before such consumer may take any  
171 action to prevent automatic renewal of, or prevent or terminate  
172 provision of continuous consumer services under, a consumer  
173 agreement pursuant to subdivision (1) of this subsection. No consumer  
174 who is unwilling or unable to enter the consumer's account information,  
175 or otherwise authenticate such consumer's identity, online under this

176 subdivision shall be precluded from authenticating such consumer's  
177 identity, or taking action to prevent such automatic renewal or prevent  
178 or terminate provision of continuous consumer services, offline by any  
179 other method set forth in subparagraph (A) of subdivision (1) of  
180 subsection (b) of this section.

181 Sec. 2. (NEW) (*Effective October 1, 2023*) (a) For the purposes of this  
182 section:

183 (1) "Consumer" means an individual who is a resident of this state  
184 and a recipient, or a prospective recipient, of consumer goods or  
185 services;

186 (2) "Consumer bill" means a bill or invoice for consumer goods or  
187 services delivered or provided to a consumer by, or on behalf of, a  
188 person doing business in this state;

189 (3) "Consumer goods or services" means articles or services that are  
190 purchased, leased, exchanged or received primarily for personal, family  
191 or household purposes; and

192 (4) "Person" means any individual, corporation, partnership, limited  
193 liability company, association, joint stock company, business trust,  
194 unincorporated organization or other legal entity.

195 (b) Each person doing business in this state that delivers or provides  
196 consumer goods or services to consumers and issues, or causes to be  
197 issued, consumer bills in an electronic form shall provide to any  
198 consumer, on such consumer's request, consumer bills in paper form.  
199 No such person shall impose, or cause to be imposed, any charge or fee  
200 for providing any such consumer bill in paper form.

201 (c) The Commissioner of Consumer Protection may adopt  
202 regulations, in accordance with the provisions of chapter 54 of the  
203 general statutes, to carry out the purposes of this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2023	New section
Sec. 2	October 1, 2023	New section

**Statement of Legislative Commissioners:**

In Section 1(b)(1)(F)(ii), "shall make" was changed to "makes" for internal consistency; in Sections 1(b)(1)(F)(ii)(I) and (II), "if" was changed to "where" for clarity; in Section 1(b)(1)(F)(iii), "subparagraphs (F)(i) and (F)(ii)" was changed to "subparagraph (F)(i) or (F)(ii)" for accuracy; and in Section 1(b)(2)(A)(ii)(II), "or set off" was changed to "or is set off" for clarity.

**GL**      *Joint Favorable Subst. -LCO*



*The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.*

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**OFA Fiscal Note****State Impact:** None**Municipal Impact:** None**Explanation**

The bill sets limitations on using automatic renewal and continuous service provisions in consumer agreements and allows the Department of Consumer Protection to adopt regulations to implement these provisions resulting in no fiscal impact to the state.

**The Out Years****State Impact:** None**Municipal Impact:** None

**OLR Bill Analysis****HB 5314****AN ACT CONCERNING CONSUMER AGREEMENTS AND CONSUMER BILLS.****SUMMARY**

This bill sets limitations and conditions on using automatic renewal and continuous service provisions in consumer agreements entered into or amended on or after October 1, 2023. Among other things, it prohibits businesses that enter into or offer these agreements from charging a consumer's credit card, debit card, or third-party payment account for any automatic renewal or continuous services without the consumer's affirmative consent. This prohibition applies regardless of whether the renewal or continuous services were offered at a promotional or discounted price.

The bill additionally requires these businesses to:

1. establish and maintain a toll-free phone number, email address or postal address, and an online way for consumers to prevent automatic renewals or prevent and terminate continuous consumer services;
2. meet various disclosure requirements; and
3. allow a consumer to take any action needed to stop a renewal or service entirely online if the consumer agreement was entered into online.

The bill also requires any legal entity doing business in the state that delivers or provides consumer goods or services to issue paper, rather than electronic, bills or invoices to a consumer upon request. Further, it prohibits these businesses from making the consumer pay a charge or

fee for the paper bills or invoices. (These provisions could be subject to litigation based on a federal court’s ruling on a similar law in New York, see BACKGROUND.) The bill allows the consumer protection commissioner to adopt regulations to implement these paper bill provisions.

EFFECTIVE DATE: October 1, 2023

### **AUTOMATIC RENEWAL & CONTINUOUS SERVICE PROVISIONS**

The bill generally prohibits businesses from offering or entering into a consumer agreement that has an automatic renewal provision or continuous services provision unless it meets the conditions described below.

#### ***Definitions***

Under the bill, a “consumer agreement” is a verbal, telephonic, written, or electronic agreement between a business and a consumer (1) in which the business agrees to provide consumer goods or services and (2) that is initially entered into or amended on or after October 1, 2023. “Consumer goods” and “consumer services” are any articles or services, purchased, leased, exchanged, or received primarily for personal, family, or household purposes. A “consumer” is a Connecticut resident and prospective recipient of consumer goods or services.

An “automatic renewal provision” is a consumer agreement provision that allows the business to renew the agreement without any action by the consumer. A “continuous service provision” is a consumer agreement provision that allows the business to continue providing service to the consumer until the consumer takes action to prevent or terminate it.

#### ***Disclosure Requirements***

Under the bill, if an agreement has an automatic renewal or continuous service provision, then the business must disclose (as applicable) that the (1) agreement will automatically renew until the consumer acts to prevent it or (2) business will provide continuous services under the agreement until the consumer acts to prevent or

terminate them.

The disclosure must occur before the consumer enters into the agreement and be provided electronically, verbally, telephonically, or in writing. It must also include the following:

1. a description of what the consumer must do to prevent the automatic renewal or prevent or terminate the continuous service and, if disclosed electronically, a link or other electronic way for the consumer to do so;
2. all recurring charges that will be charged to the consumer's credit card, debit card, or third-party payment account for the renewal or continuous services, and if the amount is subject to change, then how much it will change (if the business knows);
3. the duration of the renewal's term (unless the consumer selects it) or the continuous services, and any additional provisions about them;
4. any minimum purchase requirements; and
5. the business's contact information.

**Material Changes.** If the business intends to make any material changes to an automatic renewal or continuous service provision's term, it must first disclose it to the consumer and describe what the consumer must do to cancel the renewal or terminate the services.

**Free Gifts & Trial Periods.** Under the bill, if the agreement includes a free gift or trial period, then before the consumer enters into the agreement, the business must disclose how the agreement's pricing will change and what price will be charged after the period expires. A "free gift" does not include a free promotional item or gift that differs from the consumer goods or services subject to the agreement.

If the agreement is offered electronically or telephonically and has a free gift or trial period, or a discounted or promotional price period, the business must also disclose the following to the consumer electronically

or telephonically:

1. that the business will automatically renew or provide continuous services under the agreement until the consumer acts to prevent it;
2. the duration of the automatic renewal term or continuous services and any additional provisions about them;
3. a description of what the consumer must do to stop the renewal or services; and
4. if the agreement is offered electronically, a prominently displayed direct link or button, or an email message, as required by the bill's provisions for online agreements (see below).

Under the bill, when the business must make this disclosure depends on the duration of the free gift or trial period, or discounted or promotional period. If the period is a least 32 days long, the disclosure must occur at least 21 days after the period starts, but no earlier than three days before it expires. If the period lasts for at least one year, then the disclosure must occur 15 to 45 days before it expires.

Under the bill, a business does not have to make these disclosures for free gifts and trial periods if it has not collected or maintained the consumer's email address or telephone number, as applicable, and cannot make the disclosure to the consumer.

**Other Disclosure Conditions.** The bill also requires that all of the disclosures described above meet certain additional conditions depending on how the related consumer agreement is presented. Disclosures for electronic or written agreements must be in a form that the consumer can retain and in a text that is either (1) larger than any surrounding text or (2) the same size, but (a) in a contrasting typeface, font, or color or (b) set off from the surrounding text by symbols or other marks that draw the consumer's attention to the disclosure. Disclosures for verbal or telephone agreements must be at a volume and cadence that the consumer can readily hear and understand.

**Requirements for Online Agreements**

The bill requires each business that enters into an online consumer agreement that has an automatic renewal or continuous services provision to allow the consumer to take any action needed to prevent the renewal or prevent or terminate the service online, at will, and without requiring any offline action by the consumer. The business cannot obstruct or delay the consumer's efforts to stop the renewal or services.

Under the bill, a business that has these agreements must enable consumers to stop the renewal or services through either (1) a prominently displayed direct link or button that may be located in the consumer's account or profile, or device or user settings, or (2) an email from the business that the consumer may immediately access and reply to without obtaining additional information.

The bill specifies that regardless of these requirements for online agreements, businesses may require consumers who maintain accounts with them to enter their account information or otherwise authenticate their identity online before they can stop an automatic renewal or continuous service. Under the bill, consumers who cannot or will not enter their account information or authenticate their identity online are not precluded from authenticating their identity or acting to stop a renewal or service offline, by phone, email, or traditional mail as provided in the bill.

**BACKGROUND*****Related Court Case***

In 2021, the federal District Court for the Northern District of New York ruled that a New York law (N.Y. Gen. Bus. Law § 399-zzz) that prohibited paper billing fees, but explicitly did not prohibit offering consumers a credit or other incentive to elect a specific billing option, violated the U.S. Constitution's First Amendment because it regulated the communication of fees (*Manship v. T.D. Bank*, 2021 WL 981587 (2021)).

**COMMITTEE ACTION**

General Law Committee

Joint Favorable

Yea 22    Nay 0    (03/07/2023)