



PA 23-191—sHB 5314

General Law Committee

AN ACT CONCERNING CONSUMER AGREEMENTS, CONSUMER BILLS, TELECOMMUNICATIONS AND TICKETING

SUMMARY: With exceptions, this act 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. It also requires these businesses to establish and maintain a toll-free phone number, email address, or postal address, or an online way for consumers to prevent automatic renewals or prevent and terminate continuous consumer services (§ 1).

The act also generally requires any legal entity doing business in the state that delivers or provides consumer goods or services to issue a free paper, rather than electronic, bill or invoice to a consumer upon request (§ 2).

The act makes changes in various provisions of PA 23-98 on (1) cable-TV service cancellations and (2) cable and telecommunications companies' mergers and acquisitions. PA 23-98, § 18, generally prohibits certified competitive video services providers (e.g., Frontier or Verizon) from charging customers disconnection or service downgrade fees (which prior law had already prohibited for traditional types of cable-TV companies) and requires all types of cable-TV companies to give customers a prorated rebate when they cancel or downgrade their service before the end of the billing cycle. This act, however, further specifies that the provisions in PA 23-98, § 18, apply to video service and do not relieve the subscriber from repaying certain other costs and expenses (e.g., for unreturned or damaged equipment), among other things (§ 3).

In addition, PA 23-98, § 19, generally requires the Public Utility Regulatory Authority's (PURA) approval for changes in control (e.g., mergers) of certain cable-TV, telecommunications, and internet companies. This act, however, removes the internet companies from these provisions so that they only cover cable-TV companies and certified telecommunications providers. It also makes various changes to the process and criteria that PURA must use when approving a change in control of cable-TV companies or certified telecommunications providers such as (1) removing a provision that would have required a certain percentage of a holding company's board of directors to be Connecticut-based, (2) exempting certain types of internal reorganizing or restructuring from the approval requirement, (3) setting a higher ownership threshold for a presumption of control, and (4) changing certain deadlines for PURA decisions (§ 4).

The act also amends PA 23-98, § 7, to exclude movie tickets from the law's requirements on disclosing ticket prices and related fees (§ 5).

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EFFECTIVE DATE: October 1, 2023, except the provisions on cable telecommunications mergers and acquisitions are effective July 1, 2023.

§ 1 — AUTOMATIC RENEWAL AND CONTINUOUS SERVICE PROVISIONS

The act generally prohibits businesses from offering or entering into a consumer agreement that has an automatic renewal or continuous services provision unless it meets the conditions described below. This prohibition applies regardless of whether the renewal or continuous services were offered at a promotional or discounted price. The act specifies that its provisions do not create a private right of action.

Definitions

Under the act, 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. But the act specifies that “consumer agreements” do not include agreements:

1. concerning a service provided by a business or its affiliate where either is doing business under (a) a franchise issued by a political subdivision of the state, or (b) a license, franchise, certificate, or other authorization issued by PURA;
2. concerning a service provided by a business or its affiliate where either the business or its affiliate is regulated by PURA, the Federal Communications Commission, or the Federal Energy Regulatory Commission;
3. with any entity regulated by the Insurance Department or an affiliate of such an entity;
4. with any bank, out-of-state bank, bank holding company, Connecticut credit union, federal credit union, or out-of-state credit union, or any subsidiary of them; or
5. concerning any global service largely or predominately consisting of audiovisual content (PA 23-205, § 156, expands the last exemption to include such audiovisual content services offered on a national level).

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

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Under the act, 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 the automatic renewal is 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 act, 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 act's provisions for online agreements (see below).

Under the act, 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

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at least one year, then the disclosure must occur between 15 to 45 days before it expires.

Under the act, 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 act 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 act 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 act, 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 act 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 act, 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 act.

§ 2 — PAPER BILLS

The act also generally requires any person or 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. However, these requirements only apply if in the ordinary course of the entity's business, it issues paper consumer bills.

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The act allows the consumer protection commissioner to adopt regulations to implement these paper bill provisions.

§ 3 — TV SERVICE CANCELLATIONS

Prior law prohibited community antenna (i.e., traditional cable) TV companies from charging customers (1) disconnection fees; (2) service downgrade fees that exceed the company's costs for the downgrade; or (3) fees for any service or service option after a disconnection or downgrade request (as applicable) unless the customer prevents the company from disconnecting service in a reasonable time. PA 23-98, § 18, (1) broadens this law to also cover certified competitive video services providers (which, in practice, covers all types cable-TV companies); (2) prohibits both types of providers from charging for service after a cancellation request; (3) eliminates the prohibition on charging customers service downgrade fees that exceed the company's costs for the downgrade; and (4) requires the companies to give customers a prorated rebate when they cancel or downgrade their service before the end of the billing cycle.

This act, however, reinstates the prohibition on charging customers service downgrade fees that exceed the company's costs for the downgrade. It also specifies that:

1. the prohibitions in PA 23-98 apply to charges on video service subscribers and their requests to disconnect or downgrade their video service and
2. the law (as amended by PA 23-98) does not relieve a subscriber from responsibility for any charges (a) incurred as of the subscription termination date, (b) for unreturned or damaged equipment, or (c) for balances owed on equipment bought from the company.

§ 4 — CABLE AND TELECOMMUNICATIONS MERGERS AND ACQUISITIONS

By law, anyone seeking a change in control over a PURA-regulated utility (e.g., electric, gas, and water companies), or interfering or exercising control over them, must first apply for and receive PURA's approval. This applies to mergers and actions that create a holding company or change control of an existing holding company. The law also requires PURA's approval before a PURA-regulated utility or their holding companies interfere or attempt to interfere with, or exercise or attempt to exercise control over, another PURA-regulated utility.

PA 23-98, § 19, generally extends these requirements to also cover changes in control, interference with, and exercising control over (1) video service providers with a certificate of cable franchise authority and certified competitive video service providers (i.e., cable-TV companies); (2) certified telecommunications providers; and (3) broadband internet access service (BIAS) providers.

This act, however, removes BIAS providers from PA 23-98's provisions so that the approval requirement only extends to cable-TV companies and certified telecommunications providers. It also makes various changes to the process and criteria that PURA must use when approving a change in control of cable-TV

companies or certified telecommunications providers.

Connecticut-Based Board Members

For changes in control over a PURA-regulated utility, the law prohibits PURA from approving an application unless the percentage of Connecticut-based members on the holding company's board of directors equals the percentage of the holding company's total service area that is in Connecticut (e.g., if 30% of the company's service area is in Connecticut, then 30% of its directors must be Connecticut-based). PA 23-98, § 19, extended this provision to changes in control of cable-TV companies and certified telecommunications providers. This act, however, rescinds this extension so that it only applies to PURA-regulated utilities.

Exemptions to PURA's Approval

The law, as amended by PA 23-98, requires PURA's approval for certain actions related to a holding company, which is any person or corporate entity that, alone or with other entities, controls a PURA-regulated utility, cable-TV company, or certified telecommunications provider. Generally, these entities must receive PURA's approval before:

1. taking action to become a holding company;
2. acquiring control over a holding company;
3. taking any action that would, if successful, cause it to become or to acquire control over a holding company;
4. interfering with PURA-regulated utilities, cable-TV companies, or certified telecommunications providers, or their holding companies, or attempting to do so; or
5. exercising control over PURA-regulated utilities, cable-TV companies, or certified telecommunications providers, or their holding companies, or attempting to do so.

This act, however, removes the provision that explicitly prohibits the holding companies of cable-TV companies or certified telecommunications providers from interfering with or exercising control over the companies without PURA's approval.

The law, as amended by PA 23-98, exempts federally regulated interstate commerce from the approval requirement for interfering with or exercising control over the companies. This act extends the same exemption to the approval requirement for cable-TV companies and certified telecommunications providers becoming holding companies. It also specifies that cable-TV companies and certified telecommunications providers, or their holding companies, do not need PURA's approval for any internal reorganization or restructuring that does not involve a change in their operational control or management.

Presumption of "Control"

By law, "control" is possessing power to direct a company's management and

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policies (e.g., through owning voting securities or being able to change the composition of the company's board of directors). The law generally presumes control exists if a person owns at least 10% of a PURA-regulated utility company's voting securities, but this may be rebutted in a hearing. PA 23-98 extends this presumption to cable-TV companies, certified telecommunications providers, and their holding companies. This act, however, rescinds this extension and instead creates a separate presumption of control for cable-TV companies and certified telecommunications providers, and their holding companies, if a person directly or indirectly owns more than 40% of their voting securities. As under the law for PURA-regulated utility companies, the presumption may be rebutted if, after a hearing, PURA finds the ownership does not in fact confer control.

PURA Application Review and Process

PA 23-98 subjects cable-TV companies and telecommunication services providers to an application and review process similar to the one the law requires for PURA-regulated utilities. This act, however, creates additional distinctions between the existing process for PURA-regulated utilities and the process for cable-TV companies and telecommunication services providers.

Under PA 23-98, once someone files an application related to cable-TV companies or telecommunications services providers, PURA must give the applicant notice about a public hearing within 30 business days, hold the hearing within 60 business days, and make its determination within 120 days unless the applicant agrees to an extension. PURA may also extend its determination deadline by up to 30 days if it meets certain notice requirements. This act, however, explicitly limits PURA to issuing one of these extensions and changes the 120-day deadline to 180 days after the application was filed.

PURA must investigate the applications and may approve or disapprove an application or any part of one under terms and conditions the authority deems necessary or appropriate. PA 23-98 allows PURA, as part of its investigation, to (1) ask companies or holding companies subject to a proposed acquisition for their views on the proposed acquisition, (2) allow the companies or holding companies to participate in the hearing, and (3) order parties to refrain from communicating with their shareholders. This act, however, removes PURA's authority to issue this order to cable-TV companies and certified telecommunications providers.

PA 23-98 requires PURA, when making its determination, to consider the (1) applicant's financial, technological, and managerial suitability and responsibility and (2) ability of the company or holding company that is subject to the application to provide safe, adequate, and reliable service through the company's plant, equipment, and operational procedures if PURA approves the application. This act, however, limits the scope of PURA's review for cable-TV companies and certified telecommunications providers, or their holding companies, to only the (1) applicant's financial, technological, and managerial suitability and responsibility and (2) legal, financial, and technical ability of the entity that is subject to the application to provide safe, adequate, and reliable service subject to PURA's regulation.

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§ 5 — TICKET PRICE DISCLOSURE

PA 23-98, § 7, establishes disclosure requirements for anyone selling or reselling tickets for an entertainment event, requires operators that charge admission prices for places of entertainment to include certain related information on the ticket face, and prohibits false or misleading disclosures. This act modifies that provision to exempt movie tickets from the act's requirements.