

**Consumer Protection Amendments**  
2025 GENERAL SESSION  
STATE OF UTAH  
**Chief Sponsor: Evan J. Vickers**

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**LONG TITLE**

**Committee Note:**

The Business and Labor Interim Committee recommended this bill.

Legislative Vote: 10 voting for 0 voting against 12 absent

**General Description:**

This bill amends provisions relating to consumer protection.

**Highlighted Provisions:**

This bill:

- describes the award a court must issue when granting a judgment in favor of the Division of Consumer Protection (division);

- clarifies what constitutes a deceptive and unconscionable sales practice;

- clarifies the division's rulemaking and investigatory authority;

- allows the division to request that a court order disgorgement of money under certain circumstances;

- clarifies the factors a court considers when issuing a fine;

- clarifies that a government agency may bring an enforcement action for defective construction; and

- makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**13-2-6**, as last amended by Laws of Utah 2024, Chapter 102

**13-11-2**, as enacted by Laws of Utah 1973, Chapter 188

**13-11-3**, as last amended by Laws of Utah 2004, Chapter 55

**13-11-4**, as last amended by Laws of Utah 2024, Chapters 102, 186

**13-11-5**, as enacted by Laws of Utah 1973, Chapter 188

32       **13-11-6**, as last amended by Laws of Utah 2024, Chapter 158  
 33       **13-11-7**, as last amended by Laws of Utah 2024, Chapter 101  
 34       **13-11-8**, as enacted by Laws of Utah 1973, Chapter 188  
 35       **13-11-9**, as enacted by Laws of Utah 1973, Chapter 188  
 36       **13-11-16**, as last amended by Laws of Utah 1997, Chapter 296  
 37       **13-11-17**, as last amended by Laws of Utah 2018, Chapter 276  
 38       **13-11-18**, as enacted by Laws of Utah 1973, Chapter 188  
 39       **13-11-19**, as last amended by Laws of Utah 2018, Chapter 276  
 40       **13-11-20**, as last amended by Laws of Utah 2010, Chapter 378  
 41       **13-11-21**, as last amended by Laws of Utah 2024, Chapter 222  
 42       **13-11-22**, as enacted by Laws of Utah 1973, Chapter 188  
 43       **78B-4-513**, as enacted by Laws of Utah 2008, Chapter 280

44 REPEALS:

45       **13-11-17.5**, as enacted by Laws of Utah 1987, Chapter 105

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47 *Be it enacted by the Legislature of the state of Utah:*

48       Section 1. Section **13-2-6** is amended to read:

49       **13-2-6 . Enforcement powers.**

- 50 (1) In accordance with Title 63G, Chapter 4, Administrative Procedures Act, the division  
 51 shall have authority to convene administrative hearings, issue cease and desist orders,  
 52 and impose fines under all the chapters identified in Section 13-2-1.
- 53 (2) A person who intentionally violates a final cease and desist order entered by the division  
 54 of which the person has notice is guilty of a third degree felony.
- 55 (3) If the division has reasonable cause to believe that a person has violated or is violating  
 56 any chapter listed in Section 13-2-1, the division may promptly issue the alleged violator  
 57 a citation signed by the division's director or the director's designee.
- 58 (a) Each citation shall be in writing and shall:
- 59       (i) set forth with particularity the nature of the violation, including a reference to the  
 60       statutory or administrative rule provision violated;
- 61       (ii) state that a request for review of the citation shall be made in writing and be  
 62       received by the division no more than 20 calendar days after the day on which the  
 63       division issues the citation;
- 64       (iii) state the consequences of failing to make a timely request for review; and  
 65       (iv) state all other information required by Subsection 63G-4-201(2).

- 66 (b) In computing a time period under this section, the following days may not be  
67 included:
- 68 (i) the day on which the division issues a citation; and  
69 (ii) the day on which the division receives a request for review of a citation.
- 70 (c)(i) Except as provided in Subsection (3)(c)(iii), if the presiding officer finds that  
71 there is not substantial evidence that the recipient violated a chapter listed in  
72 Section 13-2-1:
- 73 (A) the citation may not become final; and  
74 (B) the division shall immediately vacate the citation and promptly notify the  
75 recipient in writing.
- 76 (ii) Except as provided in Subsection (3)(c)(iv), if the presiding officer finds that  
77 there is substantial evidence that the recipient violated a chapter listed in Section  
78 13-2-1:
- 79 (A) the citation shall become final; and  
80 (B) the division may enter a cease and desist order against the recipient.
- 81 (iii) For a citation issued for a violation of Chapter 41, Price Controls During  
82 Emergencies Act, if the presiding officer finds that there is not clear and  
83 convincing evidence that the recipient violated the chapter:
- 84 (A) the citation may not become final; and  
85 (B) the division shall immediately vacate the citation and promptly notify the  
86 recipient in writing.
- 87 (iv) For a citation issued for a violation of Chapter 41, Price Controls During  
88 Emergencies Act, if the presiding officer finds that there is clear and convincing  
89 evidence that the recipient violated the chapter:
- 90 (A) the citation shall become final; and  
91 (B) the division may enter a cease and desist order against the recipient.
- 92 (d)(i) A citation issued under this chapter may be personally served upon a person  
93 upon whom a summons may be served in accordance with the Utah Rules of Civil  
94 Procedure.
- 95 (ii) A citation also may be served by first-class mail, postage prepaid.
- 96 (e)(i) If the recipient fails to make a request for review within 20 calendar days after  
97 the day on which the division issues the citation, the citation shall become the  
98 final order of the division.
- 99 (ii) The period to contest the citation may be extended by the director for good cause

- 100 shown.
- 101 (f) If the chapter violated allows for an administrative fine, after a citation becomes  
102 final, the director may impose the administrative fine.
- 103 (4)(a) A person who has violated, is violating, or has attempted to violate a chapter  
104 identified in Section 13-2-1 is subject to the division's jurisdiction if:
- 105 (i) the violation or attempted violation is committed wholly or partly within the state;  
106 (ii) conduct committed outside the state constitutes an attempt to commit a violation  
107 within the state; or  
108 (iii) transactional resources located within the state are used by the offender to  
109 directly or indirectly facilitate a violation or attempted violation.
- 110 (b) As used in this section, "transactional resources" means:
- 111 (i) a mail drop or mail box, regardless of whether the mail drop or mail box is located  
112 on the premises of a United States Post Office;  
113 (ii) a telephone or facsimile transmission device;  
114 (iii) an Internet connection by a resident or inhabitant of this state with a resident- or  
115 nonresident-maintained Internet site;  
116 (iv) a business office or private residence used for a business-related purpose;  
117 (v) an account with or services of a financial institution;  
118 (vi) the services of a common or private carrier; or  
119 (vii) the use of a city, county, or state asset or facility, including a road or highway.
- 120 (5) The director or the director's designee, for the purposes outlined in a chapter  
121 administered by the division, may administer oaths, issue subpoenas, compel the  
122 attendance of witnesses, conduct audits, compel sworn responses to written questions, or  
123 compel the production of papers, books, accounts, documents, or evidence.
- 124 (6)(a) An administrative action filed under this chapter or a chapter listed in Section  
125 13-2-1 shall be commenced no later than 10 years after the day on which the alleged  
126 violation occurs.
- 127 (b) A civil action filed under this chapter or a chapter listed in Section 13-2-1 shall be  
128 commenced no later than five years after the day on which the alleged violation  
129 occurs.
- 130 (c) The provisions of this Subsection (6) control over the provisions of Title 78B,  
131 Chapter 2, Statutes of Limitations.
- 132 (7) When granting a judgment in the division's favor in connection with the division's  
133 exercise of any authority described in Section 13-2-5 or 13-2-6, a court shall award:

- 134 (a) reasonable attorney fees;  
 135 (b) court costs;  
 136 (c) costs of investigation; and  
 137 (d) any other relief the court deems appropriate.

138 Section 2. Section **13-11-2** is amended to read:

139 **13-11-2 . Construction and purposes of act.**

140 This act shall be construed liberally to promote the following policies:

- 141 (1) to simplify, clarify, and modernize the law governing consumer sales practices;  
 142 (2) to protect consumers from suppliers who commit deceptive and unconscionable sales  
 143 practices, including by disgorging money or any thing of value obtained in violation of  
 144 this chapter;  
 145 (3) to encourage the development of fair consumer sales practices;  
 146 (4) to make state regulation of consumer sales practices [~~not inconsistent~~] consistent with  
 147 the policies of the Federal Trade Commission Act relating to consumer protection;  
 148 (5) to make uniform the law, including the administrative rules, with respect to the subject  
 149 of this [~~act~~] chapter among those states [~~which~~] that enact similar laws; and  
 150 (6) to recognize and protect suppliers [~~who~~] that in good faith comply with the provisions of  
 151 this [~~act~~] chapter.

152 Section 3. Section **13-11-3** is amended to read:

153 **13-11-3 . Definitions.**

154 As used in this chapter:

- 155 (1) "Charitable solicitation" means any request directly or indirectly for money, credit,  
 156 property, financial assistance, or any other thing of value on the plea or representation  
 157 that it will be used for a charitable purpose. A charitable solicitation may be made in  
 158 any manner, including:  
 159 (a) any oral or written request, including a telephone request;  
 160 (b) the distribution, circulation, or posting of any handbill, written advertisement, or  
 161 publication; or  
 162 (c) the sale of, offer or attempt to sell, or request of donations for any book, card,  
 163 chance, coupon, device, magazine, membership, merchandise, subscription, ticket,  
 164 flower, flag, button, sticker, ribbon, token, trinket, tag, souvenir, candy, or any other  
 165 article in connection with which any appeal is made for any charitable purpose, or  
 166 where the name of any charitable organization or movement is used or referred to as  
 167 an inducement or reason for making any purchase donation, or where, in connection

168 with any sale or donation, any statement is made that the whole or any part of the  
169 proceeds of any sale or donation will go to or be donated to any charitable purpose.  
170 A charitable solicitation is considered complete when made, whether or not the  
171 organization or person making the solicitation receives any contribution or makes any  
172 sale.

173 (2)(a) "Consumer transaction" means a sale, lease, assignment, award by chance, or  
174 other written or oral transfer or disposition of goods, services, or other property, both  
175 tangible and intangible (except securities and insurance) to, or apparently to, a person  
176 for:

- 177 (i) primarily personal, family, or household purposes; or
- 178 (ii) purposes that relate to a business opportunity that requires:
  - 179 (A) expenditure of money or property by the person described in Subsection (2)(a);
  - 180 and
  - 181 (B) the person described in Subsection (2)(a) to perform personal services on a  
182 continuing basis and in which the person described in Subsection (2)(a) has not  
183 been previously engaged.

184 (b) "Consumer transaction" includes:

- 185 (i) any of the following with respect to a transfer or disposition described in  
186 Subsection (2)(a):
  - 187 (A) an offer;
  - 188 (B) a solicitation;
  - 189 (C) an agreement; or
  - 190 (D) performance of an agreement; or
- 191 (ii) a charitable solicitation.

192 (3) [~~"Enforcing authority"~~] "Division" means the Division of Consumer Protection.

193 (4) "Final judgment" means a judgment, including any supporting opinion, that determines  
194 the rights of the parties and concerning which appellate remedies have been exhausted  
195 or the time for appeal has expired.

196 [~~(5) "Person" means an individual, corporation, government, governmental subdivision or  
197 agency, business trust, estate, trust, partnership, association, cooperative, or any other  
198 legal entity.]~~]

199 [(6)] (5) "Supplier" means a seller, lessor, assignor, offeror, broker, or other person who  
200 regularly solicits, engages in, or enforces consumer transactions, whether or not [he] the  
201 person deals directly with the consumer.

- 202 (6) "Vulnerable adult" means the same as that term is defined in Section 26B-6-201.  
203 Section 4. Section **13-11-4** is amended to read:  
204 **13-11-4 . Deceptive act or practice by supplier.**
- 205 (1) ~~[A deceptive act or practice by a supplier in connection with a consumer transaction~~  
206 ~~violates this chapter whether it occurs before, during, or after the transaction]~~ A supplier  
207 that engages in a deceptive act or practice in connection with a consumer transaction  
208 violates this chapter, whether the deceptive act or practice occurs before, during, or after  
209 the transaction.
- 210 (2) Without limiting the scope of Subsection (1), a supplier commits a deceptive act or  
211 practice if the supplier~~[ knowingly or intentionally]~~:
- 212 (a) indicates that the subject of a consumer transaction has sponsorship, approval,  
213 performance characteristics, accessories, uses, or benefits, if ~~[it]~~ the subject has not;
- 214 (b) indicates that the subject of a consumer transaction is of a particular standard,  
215 quality, grade, style, or model, if ~~[it]~~ the subject is not;
- 216 (c) indicates that the subject of a consumer transaction is new, or unused, if ~~[it]~~ the  
217 subject is not, or has been used to an extent that is materially different from the fact;
- 218 (d) indicates that the subject of a consumer transaction is available to the consumer for a  
219 reason that does not exist, including any of the following reasons falsely used in an  
220 advertisement:
- 221 (i) "going out of business";  
222 (ii) "bankruptcy sale";  
223 (iii) "lost our lease";  
224 (iv) "building coming down";  
225 (v) "forced out of business";  
226 (vi) "final days";  
227 (vii) "liquidation sale";  
228 (viii) "fire sale";  
229 (ix) "quitting business"; or  
230 (x) an expression similar to any of the expressions in Subsections (2)(d)(i) through  
231 (ix);
- 232 (e) indicates that the subject of a consumer transaction has been supplied in accordance  
233 with a previous representation, if ~~[it]~~ the subject has not;
- 234 (f) indicates that the subject of a consumer transaction will be supplied in greater  
235 quantity than the supplier intends;

- 236 (g) indicates that replacement or repair is needed, if ~~it~~ the replacement or repair is not;
- 237 (h) indicates that a specific price advantage exists, if ~~it~~ the specific price advantage
- 238 does not;
- 239 (i) indicates that the supplier has a sponsorship, approval, license, certification, or
- 240 affiliation the supplier does not have;
- 241 (j)(i) indicates that a consumer transaction involves or does not involve a warranty, a
- 242 disclaimer of warranties, particular warranty terms, or other rights, remedies, or
- 243 obligations, if the representation is false; or
- 244 (ii) fails to honor a warranty or a particular warranty term;
- 245 (k) indicates that the consumer will receive a rebate, discount, or other benefit as an
- 246 inducement for entering into a consumer transaction in return for giving the supplier
- 247 the names of prospective consumers or otherwise helping the supplier to enter into
- 248 other consumer transactions, if receipt of the benefit is contingent on an event
- 249 occurring after the consumer enters into the transaction;
- 250 (l) after receipt of payment for goods or services, fails to ship the goods or furnish the
- 251 services within the time advertised or otherwise represented or, if no specific time is
- 252 advertised or represented, fails to ship the goods or furnish the services within 30
- 253 days, unless within the applicable time period the supplier provides the buyer with
- 254 the option to:
- 255 (i) cancel the sales agreement and receive a refund of all previous payments to the
- 256 supplier if the refund is mailed or delivered to the buyer within 10 business days
- 257 after the day on which the seller receives written notification from the buyer of the
- 258 buyer's intent to cancel the sales agreement and receive the refund; or
- 259 (ii) extend the shipping date to a specific date proposed by the supplier;
- 260 (m) except as provided in Subsection (3)(b), fails to furnish a notice meeting the
- 261 requirements of Subsection (3)(a) of the purchaser's right to cancel a direct
- 262 solicitation sale within three business days of the time of purchase if:
- 263 (i) the sale is made other than at the supplier's established place of business pursuant
- 264 to the supplier's personal contact, whether through mail, electronic mail, facsimile
- 265 transmission, telephone, or any other form of direct solicitation; and
- 266 (ii) the sale price exceeds \$25;
- 267 (n) promotes, offers, or grants participation in a pyramid scheme as defined under Title
- 268 76, Chapter 6a, Pyramid Scheme Act;
- 269 (o) in connection with a charitable solicitation:



- 270 (i) falsely indicates that:
- 271 (A) the supplier is affiliated with a charitable organization;
- 272 (B) the supplier is an employee, officer, or representative of a public safety
- 273 agency;
- 274 (C) the supplier has sponsorship or approval of a given charitable organization;
- 275 (D) a charitable contribution will be provided to a given charitable organization;
- 276 (E) providing a charitable contribution has an additional benefit, including a tax
- 277 benefit; or
- 278 (F) the recipient of the solicitation has previously contributed to a given charitable
- 279 organization;
- 280 (ii) uses a fictitious name or a name the supplier is not authorized to use; or
- 281 (iii) with intent to deceive:
- 282 (A) uses a name that is substantially similar to that of another charitable
- 283 organization; or
- 284 (B) falsely indicates that a charitable contribution will be used for a particular
- 285 purpose;
- 286 (p) if a consumer indicates the consumer's intention of making a claim for a motor
- 287 vehicle repair against the consumer's motor vehicle insurance policy:
- 288 (i) commences the repair without first giving the consumer oral and written notice of:
- 289 (A) the total estimated cost of the repair; and
- 290 (B) the total dollar amount the consumer is responsible to pay for the repair,
- 291 which dollar amount may not exceed the applicable deductible or other copay
- 292 arrangement in the consumer's insurance policy; or
- 293 (ii) requests or collects from a consumer an amount that exceeds the dollar amount a
- 294 consumer was initially told the consumer was responsible to pay as an insurance
- 295 deductible or other copay arrangement for a motor vehicle repair under Subsection
- 296 (2)(p)(i), even if that amount is less than the full amount the motor vehicle
- 297 insurance policy requires the insured to pay as a deductible or other copay
- 298 arrangement, unless:
- 299 (A) the consumer's insurance company denies that coverage exists for the repair,
- 300 in which case, the full amount of the repair may be charged and collected from
- 301 the consumer; or
- 302 (B) the consumer misstates, before the repair is commenced, the amount of money
- 303 the insurance policy requires the consumer to pay as a deductible or other

- 304 copay arrangement, in which case, the supplier may charge and collect from  
305 the consumer an amount that does not exceed the amount the insurance policy  
306 requires the consumer to pay as a deductible or other copay arrangement;
- 307 (q) includes in any contract, receipt, or other written documentation of a consumer  
308 transaction, or any addendum to any contract, receipt, or other written documentation  
309 of a consumer transaction, any confession of judgment or any waiver of any of the  
310 rights to which a consumer is entitled under this chapter;
- 311 (r) charges a consumer for a consumer transaction or a portion of a consumer transaction  
312 that has not previously been agreed to by the consumer;
- 313 (s) solicits or enters into a consumer transaction with ~~[a person]~~ an individual who lacks  
314 the mental ability to comprehend the nature and consequences of:
- 315 (i) the consumer transaction; or  
316 (ii) the ~~[person's]~~ individual's ability to benefit from the consumer transaction;
- 317 (t) solicits for the sale of a product or service by providing a consumer with an  
318 unsolicited check or negotiable instrument the presentment or negotiation of which  
319 obligates the consumer to purchase a product or service, unless the supplier is:
- 320 (i) a depository institution under Section 7-1-103;  
321 (ii) an affiliate of a depository institution; or  
322 (iii) an entity regulated under Title 7, Financial Institutions Act;
- 323 (u) sends an unsolicited mailing to a person that appears to be a billing, statement, or  
324 request for payment for a product or service the person has not ordered or used, or  
325 that implies that the mailing requests payment for an ongoing product or service the  
326 person has not received or requested;
- 327 (v) issues a gift certificate, instrument, or other record in exchange for payment to  
328 provide the bearer, upon presentation, goods or services in a specified amount  
329 without printing in a readable manner on the gift certificate, instrument, packaging,  
330 or record any expiration date or information concerning a fee to be charged and  
331 deducted from the balance of the gift certificate, instrument, or other record;
- 332 (w) misrepresents the geographical origin or location of the supplier's business;
- 333 (x) fails to comply with the restrictions of Section 15-10-201 on automatic renewal  
334 provisions;
- 335 (y) violates Section 13-59-201;
- 336 (z) fails to comply with the restrictions of Subsection 13-54-202(2); or  
337 (aa) states or implies that a registration or application administered or enforced by the

- 338 division is an endorsement, sanction, or approval by the division or a governmental  
 339 agency or office.
- 340 (3)(a) The notice required by Subsection (2)(m) shall:
- 341 (i) be a conspicuous statement written in dark bold with at least 12-point type on the  
 342 first page of the purchase documentation; and
- 343 (ii) read as follows: "YOU, THE BUYER, MAY CANCEL THIS CONTRACT AT  
 344 ANY TIME PRIOR TO MIDNIGHT OF THE THIRD BUSINESS DAY (or time  
 345 period reflecting the supplier's cancellation policy but not less than three business  
 346 days) AFTER THE DATE OF THE TRANSACTION OR RECEIPT OF THE  
 347 PRODUCT, WHICHEVER IS LATER."
- 348 (b) A supplier is exempt from the requirements of Subsection (2)(m) if the supplier's  
 349 cancellation policy:
- 350 (i) is communicated to the buyer; and
- 351 (ii) offers greater rights to the buyer than Subsection (2)(m).
- 352 (4)(a) A gift certificate, instrument, or other record that does not print an expiration date  
 353 in accordance with Subsection (2)(v) does not expire.
- 354 (b) A gift certificate, instrument, or other record that does not include printed  
 355 information concerning a fee to be charged and deducted from the balance of the gift  
 356 certificate, instrument, or other record is not subject to the charging and deduction of  
 357 the fee.
- 358 (c) Subsections (2)(v) and (4)(b) do not apply to a gift certificate, instrument, or other  
 359 record useable at multiple, unaffiliated sellers of goods or services if an expiration  
 360 date is printed on the gift certificate, instrument, or other record.

361 Section 5. Section **13-11-5** is amended to read:

362 **13-11-5 . Unconscionable act or practice by supplier.**

- 363 (1) ~~[Añ]~~ A supplier that commits an unconscionable act or practice [by a supplier] in  
 364 connection with a consumer transaction violates this [act] chapter whether [it] the  
 365 unconscionable act or practice occurs before, during, or after the transaction.
- 366 (2)(a) The unconscionability of an act or practice is a question of law for ~~[the]~~ a court  
 367 with jurisdiction.
- 368 (b) If it is claimed or appears to the court that an act or practice may be unconscionable,  
 369 the parties shall be given a reasonable opportunity to present evidence as to ~~[its]~~ the  
 370 act or practice's setting, purpose, and effect to aid the court in making ~~[its]~~ the court's  
 371 determination.

372 (3) In determining whether an act or practice is unconscionable, the court shall consider the  
373 circumstances [~~which~~] that the supplier knew or had reason to know.

374 Section 6. Section **13-11-6** is amended to read:

375 **13-11-6 . Service of process.**

376 (1) In addition to any other method provided by rule or statute, personal jurisdiction over a  
377 supplier may be acquired in a civil action or proceeding instituted in a court [~~of this state~~]  
378 with jurisdiction by the service of process as provided in Subsection (3).

379 (2)(a) A supplier that engages in any act or practice in this state governed by this  
380 chapter, or engages in a consumer transaction subject to this chapter, may designate  
381 an agent upon whom service of process may be made in the state.

382 (b) A supplier shall make a designation of an agent under Subsection (2)(a) [~~shall be~~] in  
383 writing and [~~filed~~] file the designation with the Division of Corporations and  
384 Commercial Code.

385 (c) An agent designated under this Subsection (2) shall be a resident of or a corporation  
386 authorized to do business in the state.

387 (3)(a) Subject to Subsection (3)(b), process upon a supplier may be served as provided  
388 in Section 16-17-301 if:

389 (i) a designation is not made and filed under Subsection (2); or

390 (ii) process cannot be served in the state upon the designated agent.

391 (b) Service upon a supplier is not effective unless the plaintiff promptly mails a copy of  
392 the process and pleadings by registered or certified mail to the [~~defendant~~] supplier at  
393 the [~~defendant's~~] supplier's last reasonably ascertainable address.

394 (c) The plaintiff shall file an affidavit of compliance with this section:

395 (i) with the clerk of the court; and

396 (ii) on or before the return day of the process, if any, or within any future time the  
397 court allows.

398 Section 7. Section **13-11-7** is amended to read:

399 **13-11-7 . Duties of division -- Civil penalty for violation of restraining or**  
400 **injunctive orders.**

401 (1) The [~~enforcing authority~~] division shall:

402 (a) enforce this chapter throughout the state;

403 (b) cooperate with state and local officials, officials of other states, and officials of the  
404 federal government in the administration of comparable statutes;

405 (c) inform consumers and suppliers on a continuing basis of the provisions of this

406 chapter and of acts or practices that violate this chapter[-];  
 407 (d) receive and act on complaints; and  
 408 (e) maintain a public file of final judgments rendered under this chapter that have been  
 409 either reported officially or made available for public dissemination under Subsection  
 410 (1)(c), final consent judgments, and to the extent the [~~enforcing authority~~] division  
 411 considers appropriate, assurances of voluntary compliance.

412 (2)(a) On motion of the [~~enforcing authority~~] division, or on [its] the court's own motion,  
 413 the court may impose a civil penalty of not more than \$5,000 for each day a  
 414 temporary restraining order, preliminary injunction, or permanent injunction issued  
 415 under this chapter is violated, if the supplier received notice of the restraining or  
 416 injunctive order.

417 (b) Civil penalties imposed under this section shall be paid to the General Fund.

418 Section 8. Section **13-11-8** is amended to read:

419 **13-11-8 . Powers of division.**

420 [~~(1) The enforcing authority-~~] In addition to the authority described in Sections 13-2-5 and  
 421 13-2-6, the division may conduct research, hold public hearings, make inquiries, and  
 422 publish studies relating to consumer sales acts or practices.

423 [~~(2) The enforcing authority shall adopt substantive rules that prohibit with specificity acts~~  
 424 ~~or practices that violate Section 13-11-4 and appropriate procedural rules.;~~]

425 Section 9. Section **13-11-9** is amended to read:

426 **13-11-9 . Rule-making requirements.**

427 [~~(1) In addition to complying with other rule-making requirements imposed by this act, the~~  
 428 ~~enforcing authority shall:~~]

429 [(a) ~~adopt as a rule a description of the organization of his office, stating the general~~  
 430 ~~course and method of operation of his office and method whereby the public may~~  
 431 ~~obtain information or make submissions or requests;~~]

432 [(b) ~~adopt rules of practice setting forth the nature and requirements of all formal and~~  
 433 ~~informal procedures available, including a description of the forms and instructions~~  
 434 ~~used by the enforcing authority of his office; and]~~

435 [(c) ~~make available for public inspection all rules, written statements of policy, and~~  
 436 ~~interpretations formulated, adopted, or used by the enforcing authority in discharging~~  
 437 ~~his functions.;~~]

438 [(2) ~~A rule of the enforcing authority is invalid, and may not be invoked by the enforcing~~  
 439 ~~authority for any purpose, until it has been made available for public inspection under~~

440 Subsection (1). This provision does not apply to a person who has knowledge of a rule  
 441 before engaging in an act or practice that violates this act.] In accordance with Title 63G,  
 442 Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules that  
 443 specify acts or practices that violate Subsection 13-11-4(1).

444 Section 10. Section **13-11-16** is amended to read:

445 **13-11-16 . Investigatory powers of the division.**

446 (1) If ~~[, by his own inquiries or as a result of complaints, the enforcing authority]~~ the  
 447 division has reason to believe that a person has engaged in, is engaging in, or is about to  
 448 engage in an act or practice that violates this ~~[act, he]~~ chapter, the division may [  
 449 ~~administer oaths and affirmations, subpoena witnesses or matter, and collect evidence]~~  
 450 investigate and otherwise act in accordance with Sections 13-2-5 and 13-2-6 and other  
 451 provisions of this chapter.

452 (2)(a) If the matter that the ~~[enforcing authority]~~ division subpoenas is located outside  
 453 this state, the person subpoenaed may either make ~~[it]~~ the matter available to the [  
 454 ~~enforcing authority]~~ division at a convenient location within the state or pay the  
 455 reasonable and necessary expenses for the ~~[enforcing authority]~~ division or ~~[his]~~ the  
 456 division's representative to examine the matter at the place where ~~[it]~~ the matter is  
 457 located.~~[-]~~

458 (b) The ~~[enforcing authority]~~ division may designate representatives, including officials  
 459 of the state in which the matter is located, to inspect the matter on ~~[his]~~ the division's  
 460 behalf, and ~~[he]~~ may respond to similar requests from officials of other states.

461 (3) Upon failure of a person without lawful excuse to obey a subpoena and upon reasonable  
 462 notice to all persons affected, the ~~[enforcing authority]~~ division may apply to the court  
 463 for an order compelling compliance.

464 (4) In the event a witness asserts a privilege against self-incrimination, testimony and  
 465 evidence from the witness may be compelled ~~[pursuant to]~~ in accordance with Title 77,  
 466 Chapter 22b, Grants of Immunity.

467 Section 11. Section **13-11-17** is amended to read:

468 **13-11-17 . Actions by the division.**

469 (1) The ~~[enforcing authority]~~ division may bring an action in a court ~~[of competent]~~ with  
 470 jurisdiction to:

- 471 (a) obtain a declaratory judgment that an act or practice violates this chapter;
- 472 (b) enjoin, in accordance with the principles of equity, a supplier ~~[who]~~ that has violated,  
 473 is violating, or is otherwise likely to violate this chapter;

- 474 (c) order disgorgement of money or any thing of value received in violation of this  
475 chapter;
- 476 (d) recover, for each violation, restitution for actual damages, or obtain relief under  
477 Subsection (2)(b), on behalf of impacted consumers [~~who complained to the~~  
478 ~~enforcing authority within a reasonable time after it instituted proceedings under this~~  
479 ~~chapter~~]; and
- 480 [(d)] (e) obtain a fine in an amount determined after considering the factors in Subsection  
481 (6).
- 482 (2)(a) The [~~enforcing authority~~] division may bring a class action on behalf of  
483 consumers for the actual damages caused by an act or practice specified as violating  
484 this chapter in a rule adopted by the [~~enforcing authority~~] division under [~~Subsection~~  
485 ~~13-11-8(2)~~] Section 13-11-9 before the consumer transactions on which the action is  
486 based, or declared to violate Section 13-11-4 or 13-11-5 by final judgment of courts  
487 of general jurisdiction and appellate courts of this state that was either reported  
488 officially or made available for public dissemination under Subsection 13-11-7(1)(c)  
489 by the [~~enforcing authority~~] division 10 days before the consumer transactions on  
490 which the action is based, or, with respect to a supplier who agreed to [it] a consent  
491 judgment, was prohibited specifically by the terms of a consent judgment that  
492 became final before the consumer transactions on which the action is based.
- 493 (b)(i) On motion of the [~~enforcing authority~~] division and without bond in an action  
494 under this Subsection (2), the court may make appropriate orders, including  
495 appointment of a master or receiver or sequestration of assets, but only if it  
496 appears that the defendant is threatening or is about to remove, conceal, or dispose  
497 of the defendant's property to the damage of persons for whom relief is requested.
- 498 (ii) An appropriate order described in Subsection (2)(b)(i) may include an order to:  
499 (A) reimburse consumers found to have been damaged;  
500 (B) carry out a transaction in accordance with consumers' reasonable expectations;  
501 (C) strike or limit the application of unconscionable clauses of contracts to avoid  
502 an unconscionable result;  
503 (D) impose a fine in an amount determined after considering the factors listed in  
504 Subsection (6); or  
505 (E) grant other appropriate relief.
- 506 [(ii)] (iii) The court may assess the expenses of a master or receiver against a supplier.
- 507 (c) If an act or practice that violates this chapter unjustly enriches a supplier and

508 damages can be computed with reasonable certainty, damages recoverable on behalf  
509 of consumers who cannot be located with due diligence shall be transferred to the  
510 state treasurer ~~[pursuant to]~~ in accordance with Title 67, Chapter 4a, Revised Uniform  
511 Unclaimed Property Act.

512 (d) If a supplier shows by a preponderance of the evidence that a violation of this  
513 chapter resulted from a bona fide error notwithstanding the maintenance of  
514 procedures reasonably adapted to avoid the error, recovery under this Subsection (2)  
515 is limited to the amount, if any, by which the supplier was unjustly enriched by the  
516 violation.

517 (3)(a)(i) The ~~[enforcing authority]~~ division may terminate an investigation or an  
518 action other than a class action upon acceptance of the supplier's written assurance  
519 of voluntary compliance with this chapter.[-]

520 (ii) Acceptance of an assurance may be conditioned on a commitment to reimburse  
521 consumers or take other appropriate corrective action.

522 (b)(i) An assurance is not evidence of a prior violation of this chapter.[-]

523 (ii) Unless an assurance has been rescinded by agreement of the parties or voided by  
524 a court for good cause, subsequent failure to comply with the terms of an  
525 assurance is prima facie evidence of a violation.

526 (4)(a) In addition to other penalties and remedies set out under this chapter, and in  
527 addition to ~~[its]~~ the division's other enforcement powers under Chapter 2, Division of  
528 Consumer Protection, the division director may issue a cease and desist order and  
529 impose an administrative fine of up to \$2,500 for each violation of this chapter.

530 (b) All money received through fines imposed under this section shall be deposited in  
531 the Consumer Protection Education and Training Fund created by Section 13-2-8.

532 (5)(a) Within 30 days after agency review or, if appealed to a court with jurisdiction, 30  
533 days after judicial review of a final division order imposing an administrative fine,  
534 the supplier on whom the fine is imposed shall pay the fine in full.

535 (b) The unpaid amount of a fine is increased by 10%:

536 (i) if the fine has not been paid in full within 60 days after the final division order  
537 imposing the fine; and

538 (ii) unless the division waives the 10% increase in a stipulated payment plan.

539 (6) A court shall determine the fine imposed under Subsection ~~[(1)(d)]~~ (1)(e) or Subsection [  
540 ~~(2)(b)(i)(D) shall be determined]~~ (2)(b)(ii)(D) after considering the following factors:

541 (a) the seriousness, nature, circumstances, extent, and persistence of the conduct



- 542 constituting the violation, including whether the supplier acted knowingly or  
 543 intentionally to deceive;
- 544 (b) the harm to other persons resulting either directly or indirectly from the violation;
- 545 (c) cooperation by the supplier in an inquiry or investigation conducted by the [  
 546 ~~enforcing authority~~] division concerning the violation;
- 547 (d) efforts by the supplier to prevent occurrences of the violation;
- 548 (e) efforts by the supplier to mitigate the harm caused by the violation, including a  
 549 reimbursement made to a consumer injured by the act of the supplier;
- 550 (f) the history of previous violations by the supplier;
- 551 (g) the need to deter the supplier or other suppliers from committing the violation in the  
 552 future;[-and]
- 553 (h) whether the individual harmed by the violation was a vulnerable adult; and  
 554 ~~(h)~~ (i) other matters as justice may require.

555 Section 12. Section **13-11-18** is amended to read:

556 **13-11-18 . Noncompliance by supplier subject to other state supervision --**  
 557 **Cooperation of division and other official or agency.**

- 558 (1)(a) If the [~~enforcing authority~~] division receives a complaint or other information  
 559 relating to noncompliance with this [~~aet~~] chapter by a supplier [~~who~~] that is subject to  
 560 other supervision in this state, the [~~enforcing authority~~] division shall inform the  
 561 official or agency having that supervision.[-]
- 562 (b) The [~~enforcing authority~~] division may request information about [~~suppliers~~] a supplier  
 563 from the official or agency.
- 564 (2)(a) The [~~enforcing authority~~] division and any other official or agency in this state  
 565 having supervisory authority over a supplier shall consult and assist each other in  
 566 maintaining compliance with this [~~aet~~] chapter.
- 567 (b) Within the scope of [~~their~~] the division's authority, [~~they~~] the division and any other  
 568 official or agency in this state may jointly or separately make investigations,  
 569 prosecute suits, and take other official action [~~they consider~~] the division considers  
 570 appropriate.

571 Section 13. Section **13-11-19** is amended to read:

572 **13-11-19 . Actions by consumer.**

- 573 (1) Whether [~~he~~] a consumer seeks or is entitled to damages or otherwise has an adequate  
 574 remedy at law, [~~a~~] the consumer may bring an action to:
- 575 (a) obtain a declaratory judgment that an act or practice violates this chapter; and

- 576 (b) enjoin, in accordance with the principles of equity, a supplier [~~who~~] that has violated,  
577 is violating, or is likely to violate this chapter.
- 578 (2) A consumer who suffers loss as a result of a violation of this chapter may recover~~[-but~~  
579 ~~not in a class action,-]~~ actual damages [~~or \$2,000, whichever is greater,-]~~ plus court costs,  
580 but not in a class action except as provided in this section.
- 581 (3) Whether a consumer seeks or is entitled to recover damages or has an adequate remedy  
582 at law, [~~he~~] the consumer may bring a class action for declaratory judgment, an  
583 injunction, and appropriate ancillary relief against an act or practice that violates this  
584 chapter.
- 585 (4)(a) A consumer who suffers loss as a result of a violation of this chapter may bring a  
586 class action for the actual damages caused by an act or practice specified as violating  
587 this chapter by a rule adopted by the [~~enforcing authority~~] division under [~~Subsection~~  
588 ~~13-11-8(2)~~] Section 13-11-9 before the consumer transactions on which the action is  
589 based, or declared to violate Section 13-11-4 or 13-11-5 by a final judgment of the  
590 appropriate court or courts of general jurisdiction and appellate courts of this state  
591 that was either officially reported or made available for public dissemination under  
592 Subsection 13-11-7(1)(c) by the [~~enforcing authority~~] division 10 days before the  
593 consumer transactions on which the action is based, or with respect to a supplier who  
594 agreed to [~~it~~] a consent judgment, was prohibited specifically by the terms of a  
595 consent judgment [~~which~~] that became final before the consumer transactions on  
596 which the action is based.
- 597 (b) If an act or practice that violates this chapter unjustly enriches a supplier and the  
598 damages can be computed with reasonable certainty, damages recoverable on behalf  
599 of consumers who cannot be located with due diligence shall be transferred to the  
600 state treasurer [~~pursuant to~~] in accordance with Title 67, Chapter 4a, Revised Uniform  
601 Unclaimed Property Act.
- 602 (c) If a supplier shows by a preponderance of the evidence that a violation of this chapter  
603 resulted from a bona fide error notwithstanding the maintenance of procedures  
604 reasonably adapted to avoid the error, recovery under this section is limited to the  
605 amount, if any, in which the supplier was unjustly enriched by the violation.
- 606 (5) Except for services performed by the [~~enforcing authority~~] division, the court may award  
607 to the prevailing party a reasonable attorney's fee limited to the work reasonably  
608 performed if:
- 609 (a) the consumer complaining of the act or practice that violates this chapter has brought

610 or maintained an action [~~he~~] the consumer knew to be groundless; or a supplier has  
611 committed an act or practice that violates this chapter; and

612 (b) an action under this section has been terminated by a judgment or required by the  
613 court to be settled under Subsection 13-11-21(1)(a).

614 (6) Except for consent judgment entered before testimony is taken, a final judgment in  
615 favor of the [~~enforcing authority~~] division under Section 13-11-17 is admissible as prima  
616 facie evidence of the facts on which [~~it~~] an action is based in later proceedings under this  
617 section against the same person or a person in privity with [~~him~~] the person against  
618 which the judgment is entered.

619 (7) When a judgment under this section becomes final, the prevailing party shall mail a  
620 copy to the [~~enforcing authority~~] division for inclusion in the public file maintained  
621 under Subsection 13-11-7(1)(e).

622 Section 14. Section **13-11-20** is amended to read:

623 **13-11-20 . Class actions.**

624 (1) An action may be maintained as a class action under this act only if:

625 (a) the class is so numerous that joinder of all members is impracticable;

626 (b) there are questions of law or fact common to the class;

627 (c) the claims or defenses of the representative parties are typical of the claims or  
628 defenses of the class;

629 (d) the representative parties will fairly and adequately protect the interests of the class;  
630 and

631 (e) [~~either:~~]

632 (i) the prosecution of separate actions by or against individual members of the class  
633 would create a risk of:

634 (A) inconsistent or varying adjudications with respect to individual members of  
635 the class which would establish incompatible standards of conduct for the party  
636 opposing the class; or

637 (B) adjudications with respect to individual members of the class that would as a  
638 practical matter dispose of the interests of the other members not parties to the  
639 adjudications or substantially impair or impede their ability to protect [~~their~~] the  
640 other members' interests; [~~or~~]

641 (ii) the party opposing the class has acted or refused to act on grounds generally  
642 applicable to the class, thereby making appropriate final injunctive relief or  
643 corresponding declaratory relief with respect to the class as a whole; or

644 (iii) the court finds that the questions of law or fact common to the members of the  
645 class predominate over any questions affecting only individual members, and that  
646 a class action is superior to other available methods for the fair and efficient  
647 adjudication of the controversy.

648 (2) The matters pertinent to the findings under Subsection (1)(e)(iii) include:

649 (a) the interest of members of the class in individually controlling the prosecution or  
650 defense of separate actions;

651 (b) the extent and nature of any litigation concerning the controversy already  
652 commenced by or against members of the class;

653 (c) the desirability or undesirability of concentrating the litigation of the claims in the  
654 particular forum; and

655 (d) the difficulties likely to be encountered in the management of a class action.

656 (3)(a) As soon as practicable after the commencement of an action brought as a class  
657 action, the court shall determine by order whether ~~[it]~~ the action is to be so  
658 maintained.

659 (b) An order under this subsection may be conditional, and ~~[it]~~ the order may be  
660 amended before decision on the merits.

661 (4)(a) In a class action maintained under Subsection (1)(e), the court may direct to the  
662 members of the class the best notice practicable under the circumstances, including  
663 individual notice to each member who can be identified through reasonable effort.

664 (b) The notice shall advise each member that:

665 ~~[(a)]~~ (i) the court will exclude ~~[him]~~ the member from the class, unless ~~[he]~~ the member  
666 requests inclusion, by a specified date;

667 ~~[(b)]~~ (ii) the judgment, whether favorable or not, will include all members who  
668 request inclusion; and

669 ~~[(c)]~~ (iii) a member who requests inclusion may, if ~~[he]~~ the member desires, enter an  
670 appearance through ~~[his]~~ counsel.

671 (5) When appropriate, an action may be brought or maintained as a class action with respect  
672 to particular issues, or a class may be divided into subclasses and each subclass treated  
673 as a class.

674 (6) In the conduct of a class action the court may make appropriate orders:

675 (a) determining the course of proceedings or prescribing measures to prevent undue  
676 repetition or complication in the presentation of evidence or argument;

677 (b) requiring, for the protection of the members of the class or otherwise for the fair

678 conduct of the action, that notice be given in the manner the court directs to some or  
 679 all of the members or to the [~~enforcing authority~~] division of any step in the action, or  
 680 of the proposed extent of the judgment, or of the opportunity of members to signify  
 681 whether [~~they~~] the members consider the representation fair and adequate, to  
 682 intervene and present claims or defenses, or otherwise to come into the action;  
 683 (c) imposing conditions on the representative parties or on intervenors;  
 684 (d) requiring that the pleadings be amended to eliminate allegations as to representation  
 685 of absent persons, and that the action proceed accordingly; or  
 686 (e) dealing with similar procedural matters.

687 (7)(a) A class action may not be dismissed or compromised without approval of the  
 688 court.

689 (b) Notice of the proposed dismissal or compromise shall be given to all members of the  
 690 class as the court directs.

691 (8)(a) The judgment in an action maintained as a class action under Subsection (1)(e)(i)  
 692 or (ii), whether or not favorable to the class, shall describe those whom the court  
 693 finds to be members of the class.[-]

694 (b) The judgment in a class action under Subsection (1)(e)(iii), whether or not favorable  
 695 to the class, shall specify or describe [~~those~~] the members to whom the notice  
 696 provided in Subsection (4) was directed, and who have requested inclusion, and  
 697 whom the court finds to be members of the class.

698 Section 15. Section **13-11-21** is amended to read:

699 **13-11-21 . Settlement of class action -- Complaint in class action delivered to**  
 700 **enforcing authority.**

701 (1)(a)(i)(A) A defendant in a class action may file a written [~~offer of settlement~~]  
 702 settlement offer.[-]

703 (B) If [~~it~~] the settlement offer is not accepted within a reasonable time by a  
 704 plaintiff class representative, the defendant may file an affidavit reciting the  
 705 rejection.

706 (ii)(A) The court may determine that the settlement offer has enough merit to  
 707 present to the members of the class.[-]

708 (B) If the court [~~so determines~~] determines that the settlement offer merits  
 709 presenting, the court shall order a hearing to determine whether the settlement  
 710 offer should be approved.

711 (iii) The court shall provide at least 60 days advance notice of the hearing:

- 712 (A) to the ~~[enforcing authority]~~ division; and
- 713 (B) to the extent practicable, to each member who can be identified through
- 714 reasonable effort.
- 715 (iv) The notice described in Subsection (1)(a)(iii) shall specify the terms of the
- 716 settlement offer and a reasonable period within which members of the class who
- 717 request ~~[it]~~ to be included in the class are entitled to be included in the class.
- 718 (v)(A) The statute of limitations for ~~[those who]~~ the members that are excluded [
- 719 ~~pursuant to]~~ in accordance with this Subsection ~~[(1)(a)(v)]~~ (1)(a)(v)(A) is tolled
- 720 for the period the class action has been pending, plus an additional year.[-]
- 721 (B) Within 60 days of receipt of the notice required by this Subsection (1)(a), the [
- 722 ~~enforcing authority]~~ division may intervene in the class action for the limited
- 723 purpose of objecting to the ~~[offer of settlement]~~ settlement offer.
- 724 (b)(i) If a member who has previously lost an opportunity to be excluded from the
- 725 class is excluded at ~~[his]~~ the member's request in response to notice of the
- 726 settlement offer~~[of settlement]~~ during the period specified under Subsection
- 727 (1)(a), ~~[he]~~ the member may not thereafter participate in a class action for damages
- 728 respecting the same consumer transaction, unless the court later disapproves the
- 729 settlement offer~~[of settlement]~~ or approves a settlement materially different from
- 730 that proposed in the original settlement offer~~[of settlement]~~.
- 731 (ii) After the expiration of the period of limitations, a member of the class is not
- 732 entitled to be excluded from ~~[it]~~ the class.
- 733 (c)(i) If the court later approves the settlement offer~~[of settlement]~~, including
- 734 changes, if any, required by the court in the interest of a just settlement of the
- 735 action, ~~[it]~~ the court shall enter judgment, which is binding on all persons who are
- 736 then members of the class.[-]
- 737 (ii) If the court disapproves the settlement offer or approves a settlement materially
- 738 different from that proposed in the original settlement offer, notice shall be given
- 739 to a person who was excluded from the action at ~~[his]~~ the person's request in
- 740 response to notice of the settlement offer under Subsection (1)(a), and ~~[he]~~ the
- 741 person is entitled to rejoin the class and, in the case of the approval, participate in
- 742 the settlement.
- 743 (2)(a) On the commencement of a class action under Section 13-11-19, the class
- 744 representative shall mail by certified mail with return receipt requested or personally
- 745 serve a copy of the complaint on the ~~[enforcing authority]~~ division.[-]

746 (b) Within 180 days after the receipt of a copy of the complaint, but not thereafter, the [  
747 ~~enforcing authority~~] division may intervene in the class action for purposes of  
748 participation as an interested party in litigation of the class action.

749 Section 16. Section **13-11-22** is amended to read:

750 **13-11-22 . Exemptions from application of act.**

751 (1) This act does not apply to:

752 (a) an act or practice required or specifically permitted by or under state or federal law[-  
753 ~~or by or under state law~~];

754 (b) a publisher, broadcaster, printer, or other person engaged in the dissemination of  
755 information or the reproduction of printed or pictorial matter so far as the information  
756 or matter has been disseminated or reproduced on behalf of others without actual  
757 knowledge that it violated this act;

758 (c) claim for personal injury or death or claim for damage to property other than the  
759 property that is the subject of the consumer transaction;

760 (d) credit terms of a transaction otherwise subject to this act; or

761 (e) any public utility subject to the regulating jurisdiction of the Public Service  
762 Commission of the state of Utah.

763 (2) A person alleged to have violated this act has the burden of showing the applicability of  
764 this section.

765 Section 17. Section **78B-4-513** is amended to read:

766 **78B-4-513 . Cause of action for defective construction.**

767 (1) Except as provided in Subsection (2), an action for defective design or construction is  
768 limited to breach of the contract, whether written or otherwise, including both express  
769 and implied warranties.

770 (2) An action for defective design or construction may include damage to other property or  
771 physical personal injury if the damage or injury is caused by the defective design or  
772 construction.

773 (3) For purposes of Subsection (2), property damage does not include:

774 (a) the failure of construction to function as designed; or

775 (b) diminution of the value of the constructed property because of the defective design  
776 or construction.

777 (4) Except as provided in Subsections (2) and (6), an action for defective design or  
778 construction may be brought only by a person in privity of contract with the original  
779 contractor, architect, engineer, or [~~the~~]real estate developer.

780 (5) If a person in privity of contract sues for defective design or construction under this  
781 section, nothing in this section precludes the person from bringing, in the same suit,  
782 another cause of action to which the person is entitled based on an intentional or willful  
783 breach of a duty existing in law.

784 (6) Nothing in this section precludes[-] :

785 (a) a person from assigning a right under a contract to another person, including to a  
786 subsequent owner or a homeowners association[-] ; or

787 (b) a government agency from bringing an enforcement action in accordance with any  
788 other statute for matters involving defective construction.

789 Section 18. **Repealer.**

790 This bill repeals:

791 Section **13-11-17.5, Costs and attorney's fees.**

792 Section 19. **Effective Date.**

793 This bill takes effect on May 7, 2025.