1 sSub. H.B. 174

Representative Cheryl K. Acton proposes the following substitute bill:

1	AUTOMATIC RENEWAL CONTRACT REQUIREMENTS
2	2024 GENERAL SESSION
3	STATE OF UTAH
4	Chief Sponsor: Cheryl K. Acton
5	Senate Sponsor: Todd D. Weiler
6	
7	LONG TITLE
8	General Description:
9	This bill addresses automatic renewal contract requirements.
10	Highlighted Provisions:
11	This bill:
12	 requires a person who offers a contract with an automatic renewal provision to
13	disclose certain information to the consumer regarding the renewal and cancellation
14	of the contract;
15	requires a person who offers a trial period offer to disclose certain information to
16	the consumer regarding the expiration of the trial period and purchase obligations
17	upon expiration;
18	 voids any renewal contract provision that violates this section;
19	 authorizes the Division of Consumer Protection (division) to enforce the provisions
20	in this bill;
21	requires fines and civil penalties for a violation of the provisions in this bill;
22	 requires fines and civil penalties received by the division for a violation of the
23	provisions in this bill to be placed in the Consumer Protection Education and
24	Training Fund;
25	grants administrative rulemaking authority;



26	makes technical and conforming changes; and
27	defines terms.
28	Money Appropriated in this Bill:
29	None
30	Other Special Clauses:
31	This bill provides a special effective date.
32	Utah Code Sections Affected:
33	AMENDS:
34	13-2-1 (Effective 05/02/24), as last amended by Laws of Utah 2023, Chapters 31, 36,
35	377, 458, 477, 498, 509, and 536
36	ENACTS:
37	13-70-101, Utah Code Annotated 1953
38	13-70-201, Utah Code Annotated 1953
39	13-70-301, Utah Code Annotated 1953
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41	Be it enacted by the Legislature of the state of Utah:
42	Section 1. Section 13-2-1 (Effective 05/02/24) is amended to read:
43	13-2-1 (Effective 05/02/24). Consumer protection division established
44	Functions.
45	(1) There is established within the Department of Commerce the Division of Consumer
46	Protection.
47	(2) The division shall administer and enforce the following:
48	(a) Chapter 10a, Music Licensing Practices Act;
49	(b) Chapter 11, Utah Consumer Sales Practices Act;
50	(c) Chapter 15, Business Opportunity Disclosure Act;
51	(d) Chapter 20, New Motor Vehicle Warranties Act;
52	(e) Chapter 21, Credit Services Organizations Act;
53	
	(f) Chapter 22, Charitable Solicitations Act;
54	(f) Chapter 22, Charitable Solicitations Act;(g) Chapter 23, Health Spa Services Protection Act;
54 55	

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57	(j) Chapter 28, Prize Notices Regulation Act;
58	(k) Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter
59	Transaction Information Act;
60	(l) Chapter 34, Utah Postsecondary School and State Authorization Act;
61	(m) Chapter 41, Price Controls During Emergencies Act;
62	(n) Chapter 42, Uniform Debt-Management Services Act;
63	(o) Chapter 49, Immigration Consultants Registration Act;
64	(p) Chapter 51, Transportation Network Company Registration Act;
65	(q) Chapter 52, Residential Solar Energy Disclosure Act;
66	(r) Chapter 53, Residential, Vocational and Life Skills Program Act;
67	(s) Chapter 54, Ticket Website Sales Act;
68	(t) Chapter 56, Ticket Transferability Act;
69	(u) Chapter 57, Maintenance Funding Practices Act;
70	(v) Chapter 61, Utah Consumer Privacy Act;
71	(w) Chapter 63, Utah Social Media Regulation Act;
72	(x) Chapter 64, Vehicle Value Protection Agreement Act;
73	(y) Chapter 65, Utah Commercial Email Act;
74	(z) Chapter 67, Online Dating Safety Act; [and]
75	(aa) Chapter 68, Lawyer Referral Consultants Registration Act[-]; and
76	(bb) Chapter 70, Automatic Renewal Contracts Act.
77	Section 2. Section 13-70-101 is enacted to read:
78	CHAPTER 70. AUTOMATIC RENEWAL CONTRACTS ACT
79	Part 1. General Provisions
80	<u>13-70-101.</u> Definitions.
81	As used in this chapter:
82	(1) "Automatic renewal provision" means a provision under a contract that is
83	automatically renewed at the end of a definite $\hat{S} \rightarrow , paid \leftarrow \hat{S}$ term for a subsequent $\hat{S} \rightarrow , paid \leftarrow \hat{S}$
83a	term that is longer than 45
84	days.
85	(2) "Clearly and conspicuously disclose" means to disclose:
86	(a) in print:
87	(i) in larger type than the surrounding text;

88	(ii) in contrasting type, font, or color to the surrounding text of the same size; or
89	(iii) in a manner set off from the surrounding text of the same size by symbols or other
90	marks that clearly call attention to the language; or
91	(b) through audio, in a volume and cadence sufficient to be readily audible and
92	understandable.
93	(3) "Division" means the Division of Consumer Protection established in Section
94	<u>13-2-1.</u>
94a	$\hat{S} \rightarrow (4)$ "Rental agreement" means any agreement, written or oral, which establishes or
94b	modifies the terms, conditions, rules, or any other provisions regarding the use or occupancy
94c	of real property for residential or commercial purposes. $\leftarrow \hat{S}$
95	$\hat{S} \rightarrow [\underline{(4)}]$ (5) $\leftarrow \hat{S}$ "Trial period offer" means an offer to provide a period of time to sample or
95a	<u>use a</u>
96	product or service without payment.
97	Section 3. Section 13-70-201 is enacted to read:
98	Part 2. Automatic Renewal Contract
99	13-70-201. Automatic renewal provisions Trial period offers Notice
100	Exceptions.
101	(1) Except as provided in Subsection (3), a person who provides an individual a
102	product or service under a contract with an automatic renewal provision shall provide a notice
103	to the individual, at least 30 but not more than 60 days before the day on which the automatic
104	renewal provision renews, that clearly and conspicuously discloses:
105	(a) the renewal date;
106	(b) the total renewal cost; and
107	(c) options for cancellation of the contract.
108	(2) Except as provided in Subsection (3), a person who provides an individual a trial
109	period offer shall provide a notice to the individual, at least three days before the day on which
110	the period of time under the trial period offer expires, that clearly and conspicuously discloses:
111	(a) the trial period offer expiration date;
112	(b) the price to be charged for the product or service, or any further purchase
113	obligations to be imposed on the individual, after the expiration date; and
114	(c) options for cancellation of the contract.
115	(3) This section does not apply to:
116	(a) any individual or entity regulated under Title 31A, Insurance Code, or an affiliate of
117	the individual or entity;
118	(b) a person providing a service contract, as defined in Section 31A-6a-101;

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119	(c) a financial institution or an affiliate of a financial institution regulated under Title V
120	of the Gramm-Leach-Bliley Act, 15 U.S.C. Sec. 6801 et seq.;
121	(d) a public utility, as defined in Section 54-2-1;
122	(e) an entity or affiliate of the entity that provides services regulated by the Federal
123	Communications Commission, Federal Energy Regulatory Commission, or Federal
124	Professional Services Council;
125	(f) a rental agreement $\hat{S} \rightarrow [\frac{1}{2} \text{ as defined in Section } \frac{57-22-2}{2}] \leftarrow \hat{S}$; or
126	(g) an agreement for property management, as defined in 61-2f-102.
127	(4) An automatic renewal provision that violates this section is void.
128	Section 4. Section 13-70-301 is enacted to read:
129	Part 3. Enforcement
130	13-70-301. Administration and enforcement Division powers Fees
131	Rulemaking.
132	(1) The division shall administer and enforce this chapter in accordance with Chapter
133	2, Division of Consumer Protection.
134	(2) In addition to the division's enforcement powers under Chapter 2, Division of
135	Consumer Protection:
136	(a) the division director may impose an administrative fine of up to \$2,500 for each
137	violation of this chapter; and
138	(b) the division may bring a civil action to enforce this chapter.
139	(3) In a civil action by the division to enforce this chapter, the court may:
140	(a) declare that an act or practice violates this chapter;
141	(b) issue an injunction for a violation of this chapter;
142	(c) order disgorgement of any money received after a violation of this chapter;
143	(d) order payment of disgorged money to an injured individual;
144	(e) impose a civil penalty of up to \$2,500 for each violation of this chapter; or
145	(f) award any other relief that the court deems reasonable and necessary.
146	(4) If a court grants judgment or injunctive relief to the division, the court shall award
147	the division:
148	(a) reasonable attorney fees;
149	(b) court costs; and

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150	(c) investigative fees.
151	(5) (a) A person who violates an administrative or court order issued for a violation of
152	this chapter is subject to a civil penalty of no more than \$5,000 for each violation.
153	(b) A civil penalty authorized under this section may be imposed in any civil action
154	brought by the division.
155	(c) The division shall deposit money received for the payment of a fine or civil penalty
156	under this section into the $\hat{S} \rightarrow [Consumer Protection Education and Training Fund created in$
156 157	under this section into the Ŝ→ [Consumer Protection Education and Training Fund created in Section 13-2-8.] General Fund. ←Ŝ
157	Section 13-2-8. General Fund. ←Ŝ
157 158	Section 13-2-8. General Fund. ←Ŝ (6) The division may make rules in accordance with Title 63G, Chapter 3, Utah