

CHAPTER 410

CONSUMER AND COMMERCIAL TRANSACTIONS

HOUSE BILL 21-1239

BY REPRESENTATIVE(S) Kipp and Boesenecker, Bird, Duran, Lontine, Michaelson Jenet, Mullica, Ricks, Snyder, Titone, Valdez A., Hooton, Jackson;
also SENATOR(S) Rodriguez, Gonzales, Moreno, Pettersen.

AN ACT

CONCERNING ADDING PROTECTIONS FOR CONSUMERS WHO PURCHASE CERTAIN ITEMS, AND, IN CONNECTION THEREWITH, ESTABLISHING REQUIREMENTS REGARDING THE EXECUTION AND ENFORCEMENT OF DATING SERVICE CONTRACTS AND AUTOMATIC RENEWAL CONTRACTS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add** 6-1-731 and 6-1-732 as follows:

6-1-731. Contracts for dating services and online dating services - right of cancellation - remedy for violations - required notice regarding fraud bans - definitions. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "BANNED MEMBER" MEANS A MEMBER WHOSE ACCOUNT OR PROFILE IS THE SUBJECT OF A FRAUD BAN.

(b) "BUYER" MEANS AN INDIVIDUAL WHO PURCHASES SERVICES FROM A DATING SERVICE.

(c) (I) "DATING SERVICE" MEANS ANY PERSON THAT OFFERS DATING, MATRIMONIAL, OR SOCIAL REFERRAL SERVICES BY ANY OF THE FOLLOWING MEANS:

(A) AN EXCHANGE OF NAMES, TELEPHONE NUMBERS, ADDRESSES, AND STATISTICS;

(B) A PHOTOGRAPH OR VIDEO SELECTION PROCESS;

(C) PERSONAL INTRODUCTIONS PROVIDED BY THE PERSON AT ITS PLACE OF

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

BUSINESS; OR

(D) A SOCIAL ENVIRONMENT PROVIDED BY THE PERSON INTENDED PRIMARILY AS AN ALTERNATIVE TO OTHER SINGLES' BARS OR CLUB-TYPE ENVIRONMENTS.

(II) "DATING SERVICE" INCLUDES AN ONLINE DATING SERVICE.

(d)(I) "DATING SERVICE CONTRACT" MEANS A CONTRACT BETWEEN A BUYER AND A DATING SERVICE.

(II) "DATING SERVICE CONTRACT" INCLUDES AN ONLINE DATING SERVICE CONTRACT.

(e) "DATING SERVICE OFFICE" MEANS THE PRINCIPAL PLACE OF BUSINESS OF A DATING SERVICE.

(f) "DISABILITY" MEANS A CONDITION THAT PRECLUDES A BUYER FROM PHYSICALLY USING THE SERVICES SPECIFIED IN A DATING SERVICE CONTRACT DURING THE TERM OF DISABILITY, WHICH CONDITION IS VERIFIED IN WRITING BY A PHYSICIAN DESIGNATED AND REMUNERATED BY THE BUYER.

(g) "FRAUD BAN" MEANS THE BARRING OF A MEMBER FROM AN ONLINE DATING SERVICE BECAUSE, IN THE JUDGMENT OF THE ONLINE DATING SERVICE, THE MEMBER POSES A SIGNIFICANT RISK OF ATTEMPTING TO OBTAIN MONEY FROM OTHER MEMBERS THROUGH FRAUDULENT MEANS, BY USING A FALSE IDENTITY, OR BY ATTEMPTING TO DEFRAUD OTHER MEMBERS OF THE ONLINE DATING SERVICE.

(h) "MEMBER" MEANS AN INDIVIDUAL WHO SIGNS UP OR REGISTERS WITH AN ONLINE DATING SERVICE.

(i) "MEMBER IN THIS STATE" MEANS A MEMBER WHO PROVIDES A BILLING ADDRESS OR ZIP CODE IN THIS STATE WHEN REGISTERING WITH AN ONLINE DATING SERVICE.

(j) "ONLINE DATING SERVICE" MEANS ANY PERSON ENGAGED IN THE BUSINESS OF OFFERING DATING, MATRIMONIAL, OR SOCIAL REFERRAL SERVICES THAT ARE OFFERED PRIMARILY ONLINE, SUCH AS BY MEANS OF A WEBSITE OR A MOBILE APPLICATION.

(k) "ONLINE DATING SERVICE CONTRACT" MEANS A CONTRACT BETWEEN A BUYER AND AN ONLINE DATING SERVICE.

(2)(a) IN ADDITION TO ANY OTHER RIGHT TO REVOKE AN OFFER, A BUYER HAS THE RIGHT TO CANCEL A DATING SERVICE CONTRACT UNTIL MIDNIGHT OF THE THIRD BUSINESS DAY AFTER THE DAY ON WHICH THE BUYER SIGNS THE CONTRACT.

(b) (I) EXCEPT AS DESCRIBED IN SUBSECTION (2)(b)(II) OF THIS SECTION, CANCELLATION OF A DATING SERVICES CONTRACT OCCURS WHEN THE BUYER GIVES WRITTEN NOTICE OF CANCELLATION BY MAIL, TELEGRAM, OR DELIVERY TO THE DATING SERVICE AT THE ADDRESS SPECIFIED IN THE CONTRACT OR OFFER.

(II) IN THE CASE OF AN ONLINE DATING SERVICE CONTRACT, CANCELLATION OCCURS WHEN THE BUYER GIVES WRITTEN NOTICE OF CANCELLATION BY E-MAIL TO AN E-MAIL ADDRESS PROVIDED BY THE ONLINE DATING SERVICE OR THROUGH ANOTHER SIMPLE, COST-EFFECTIVE, TIMELY, AND EASY-TO-USE MECHANISM FOR CANCELLATION PROVIDED BY THE ONLINE DATING SERVICE. ADDITIONAL ELECTRONIC MEANS OF CANCELLATION MAY BE PROVIDED BY THE CONTRACT.

(c) NOTICE OF CANCELLATION, IF GIVEN BY MAIL, IS EFFECTIVE WHEN DEPOSITED IN THE MAIL PROPERLY ADDRESSED WITH POSTAGE PREPAID. IF NOTICE OF CANCELLATION IS GIVEN BY E-MAIL, IT IS EFFECTIVE AT THE TIME THE BUYER SENDS THE NOTICE.

(d) NOTICE OF CANCELLATION GIVEN BY THE BUYER NEED NOT TAKE THE PARTICULAR FORM AS PROVIDED IN THE CONTRACT AND, HOWEVER EXPRESSED, IS EFFECTIVE IF IT INDICATES THE INTENTION OF THE BUYER TO NOT BE BOUND BY THE DATING SERVICE CONTRACT.

(e) ALL MONEY PAID PURSUANT TO ANY DATING SERVICE CONTRACT SHALL BE REFUNDED WITHIN TEN DAYS AFTER RECEIPT OF THE NOTICE OF CANCELLATION.

(f) THE BUYER MAY NOTIFY THE DATING SERVICE OF THE BUYER'S INTENT TO CANCEL THE CONTRACT WITHIN THE THREE-DAY PERIOD SPECIFIED IN THIS SUBSECTION (2) AND STOP THE PROCESSING OF A CREDIT CARD VOUCHER OR CHECK BY TELEPHONE NOTIFICATION TO THE DATING SERVICE. HOWEVER, THIS DOES NOT NEGATE THE OBLIGATION OF THE BUYER TO CANCEL THE CONTRACT BY MAIL, E-MAIL OR OTHER ELECTRONIC MEANS, TELEGRAM, OR DELIVERY AS REQUIRED PURSUANT TO THIS SECTION.

(3)(a) A DATING SERVICE CONTRACT MUST BE SET FORTH IN WRITING, WHICH, IN THE CASE OF AN ONLINE DATING SERVICE CONTRACT, MAY BE AN ELECTRONIC WRITING MADE AVAILABLE FOR VIEWING ONLINE. A COPY OF THE CONTRACT SHALL BE PROVIDED TO THE BUYER AT THE TIME THE BUYER SIGNS THE CONTRACT; EXCEPT THAT AN ONLINE DATING SERVICE SHALL NOT BE REQUIRED TO PROVIDE A COPY OF THE CONTRACT IF:

(I) THE CONTRACT IS AVAILABLE THROUGH A DIRECT ONLINE LINK THAT IS PROVIDED IN A CLEAR AND CONSPICUOUS MANNER ON THE WEBSITE WHERE THE BUYER PROVIDES CONSENT TO THE CONTRACT; AND

(II) UPON REQUEST BY THE BUYER, THE ONLINE DATING SERVICE PROVIDES A RETAINABLE DIGITAL COPY OF THE CONTRACT.

(b)(I) EACH DATING SERVICE CONTRACT MUST CONTAIN ON ITS FACE, IN CLOSE PROXIMITY TO THE SPACE RESERVED FOR THE SIGNATURE OF THE BUYER, A CONSPICUOUS STATEMENT IN A LARGER SIZE TYPE THAN THE SURROUNDING TEXT; IN CONTRASTING TYPE, FONT, OR COLOR TO THE SURROUNDING TEXT OF THE SAME SIZE; OR SET OFF FROM THE SURROUNDING TEXT OF THE SAME SIZE BY SYMBOLS OR OTHER MARKS IN A MANNER THAT CLEARLY CALLS ATTENTION TO THE LANGUAGE, AS FOLLOWS:

YOU, THE BUYER, MAY CANCEL THIS CONTRACT, WITHOUT ANY

PENALTY OR OBLIGATION, AT ANY TIME PRIOR TO MIDNIGHT OF THE THIRD BUSINESS DAY FOLLOWING THE DATE OF THIS CONTRACT, EXCLUDING SUNDAYS AND HOLIDAYS. NOTICE OF CANCELLATION NEED NOT TAKE A PARTICULAR FORM AND IS EFFECTIVE IF IT INDICATES YOUR DESIRE TO NOT BE BOUND BY THIS CONTRACT. TO CANCEL THIS CONTRACT, MAIL OR DELIVER A SIGNED AND DATED NOTICE OR SEND A TELEGRAM THAT STATES THAT YOU, THE BUYER, ARE CANCELING THIS CONTRACT, OR WORDS OF SIMILAR EFFECT. SEND THIS NOTICE TO:

_____ (NAME OF THE DATING SERVICE THAT SOLD YOU THE CONTRACT)

_____ (ADDRESS OF THE DATING SERVICE THAT SOLD YOU THE CONTRACT)

(II) NOTWITHSTANDING SUBSECTION (3)(b)(I) OF THIS SECTION, AN ONLINE DATING SERVICE CONTRACT MUST INCLUDE THE FOLLOWING STATEMENT IN A CLEAR AND CONSPICUOUS MANNER IN A STANDALONE FIRST PARAGRAPH OF THE CONTRACT:

YOU, THE BUYER, MAY CANCEL THIS CONTRACT, WITHOUT ANY PENALTY OR OBLIGATION, AT ANY TIME PRIOR TO MIDNIGHT OF THE THIRD BUSINESS DAY FOLLOWING THE DATE OF THIS CONTRACT, EXCLUDING SUNDAYS AND HOLIDAYS. NOTICE OF CANCELLATION NEED NOT TAKE A PARTICULAR FORM AND IS EFFECTIVE IF IT INDICATES YOUR DESIRE TO NOT BE BOUND BY THIS CONTRACT. TO CANCEL THIS CONTRACT, SEND AN E-MAIL THAT STATES THAT YOU, THE BUYER, ARE CANCELING THIS CONTRACT, OR WORDS OF SIMILAR EFFECT. SEND THIS NOTICE TO:

_____ (E-MAIL ADDRESS OF THE ONLINE DATING SERVICE THAT SOLD THE CONTRACT)

(c) (I) EACH DATING SERVICE CONTRACT MUST CONTAIN ON THE FIRST PAGE, IN A TYPE SIZE NO SMALLER THAN THAT GENERALLY USED IN THE BODY OF THE DOCUMENT, THE NAME AND ADDRESS OF THE DATING SERVICE TO WHICH THE NOTICE OF CANCELLATION IS TO BE MAILED OR DELIVERED AND THE DATE THE BUYER SIGNED THE CONTRACT.

(II) NOTWITHSTANDING SUBSECTION (3)(c)(I) OF THIS SECTION, IN THE CASE OF AN ONLINE DATING SERVICE CONTRACT, SAID SUBSECTION (3)(c)(I) DOES NOT APPLY IF THE NAME OF THE ONLINE DATING SERVICE AND THE E-MAIL ADDRESS OR OTHER SIMPLE, COST-EFFECTIVE, TIMELY, AND EASY-TO-USE MECHANISM THAT CAN BE USED FOR CANCELLATION APPEARS IN THE FIRST PARAGRAPH OF THE CONTRACT IN A TYPE SIZE NO SMALLER THAN THAT GENERALLY USED IN THE BODY OF THE DOCUMENT.

(d) (I) A DATING SERVICE CONTRACT SHALL NOT REQUIRE PAYMENTS OR FINANCING BY THE BUYER OVER A PERIOD EXCEEDING TWO YEARS AFTER THE DATE THE CONTRACT IS ENTERED INTO, NOR SHALL THE TERM OF ANY SUCH CONTRACT BE MEASURED BY THE LIFE OF THE BUYER. HOWEVER, THE SERVICES TO BE RENDERED TO THE BUYER UNDER THE CONTRACT MAY EXTEND OVER A PERIOD BEGINNING WITHIN SIX MONTHS AND ENDING WITHIN THREE YEARS AFTER THE DATE THE

CONTRACT IS EXECUTED.

(II) NOTWITHSTANDING SUBSECTION (3)(d)(I) OF THIS SECTION, IN THE CASE OF AN ONLINE DATING SERVICE CONTRACT, SAID SUBSECTION (3)(d)(I) DOES NOT APPLY IF THE LENGTH OF THE INITIAL TERM IS ONE YEAR OR LESS AND THE LENGTH OF EACH SUBSEQUENT TERM IS ONE YEAR OR LESS.

(e) IF A DATING SERVICE CONTRACT DOES NOT COMPLY WITH THE REQUIREMENTS OF THIS SECTION, THE BUYER MAY CANCEL THE CONTRACT AT ANY TIME.

(4)(a) EACH DATING SERVICE CONTRACT MUST CONTAIN LANGUAGE PROVIDING THAT:

(I) IF BY REASON OF DEATH OR DISABILITY THE BUYER IS UNABLE TO RECEIVE ALL SERVICES FOR WHICH THE BUYER HAS CONTRACTED, THE BUYER AND THE BUYER'S ESTATE MAY ELECT TO BE RELIEVED OF THE OBLIGATION TO MAKE PAYMENTS FOR SERVICES OTHER THAN THOSE RECEIVED BEFORE DEATH OR THE ONSET OF DISABILITY, EXCEPT AS PROVIDED IN SUBSECTION (4)(a)(III) OF THIS SECTION, SO LONG AS THE BUYER OR THE BUYER'S ESTATE PROVIDES WRITTEN VERIFICATION OF THE DISABILITY TO THE DATING SERVICE.

(II) IF THE BUYER HAS PREPAID ANY AMOUNT FOR SERVICES, SO MUCH OF THE AMOUNT PREPAID THAT IS ALLOCABLE TO SERVICES THAT THE BUYER HAS NOT RECEIVED SHALL BE PROMPTLY REFUNDED TO THE BUYER OR THE BUYER'S REPRESENTATIVE; AND

(III) IF THE PHYSICIAN VERIFYING THE BUYER'S DISABILITY DETERMINES THAT THE DURATION OF THE DISABILITY WILL BE LESS THAN SIX MONTHS, THE DATING SERVICE MAY EXTEND THE TERM OF THE CONTRACT FOR A PERIOD OF SIX MONTHS AT NO ADDITIONAL CHARGE TO THE BUYER IN LIEU OF CANCELLATION.

(b)(I) IF A DATING SERVICE PROVIDES SERVICES WITHIN A LIMITED GEOGRAPHICAL AREA, AND A BUYER RELOCATES THE BUYER'S PRIMARY RESIDENCE MORE THAN FIFTY MILES FROM THE DATING SERVICE OFFICE AND IS UNABLE TO TRANSFER THE CONTRACT TO A COMPARABLE FACILITY, THE BUYER MAY ELECT TO BE RELIEVED OF THE OBLIGATION TO MAKE PAYMENT FOR SERVICES OTHER THAN THOSE RECEIVED PRIOR TO THE RELOCATION, AND IF THE BUYER HAS PREPAID ANY AMOUNT FOR SERVICES, SO MUCH OF THE AMOUNT PREPAID THAT IS ALLOCABLE TO SERVICES THAT THE BUYER HAS NOT RECEIVED SHALL BE PROMPTLY REFUNDED TO THE BUYER. A BUYER WHO ELECTS TO BE RELIEVED OF FURTHER OBLIGATION PURSUANT TO THIS SUBSECTION (4)(b)(I) MAY BE CHARGED A PREDETERMINED FEE NOT TO EXCEED ONE HUNDRED DOLLARS OR, IF MORE THAN HALF THE LIFE OF THE CONTRACT HAS EXPIRED, A PREDETERMINED FEE NOT TO EXCEED FIFTY DOLLARS.

(II) NOTWITHSTANDING SUBSECTION (4)(b)(I) OF THIS SECTION, SAID SUBSECTION (4)(b)(I) DOES NOT APPLY TO AN ONLINE DATING SERVICE THAT IS GENERALLY AVAILABLE TO USERS ON A REGIONAL, NATIONAL, OR GLOBAL BASIS.

(c) IN ADDITION TO ANY OTHER REQUIREMENTS, AN ONLINE DATING SERVICE SHALL ALSO MAINTAIN:

(I) A REFERENCE OR ONLINE LINK TO DATING SAFETY AWARENESS INFORMATION THAT INCLUDES, AT A MINIMUM, A LIST OR DESCRIPTIONS OF SAFETY MEASURES REASONABLY INTENDED TO INCREASE AWARENESS OF SAFE DATING PRACTICES; AND

(II) A MEANS BY WHICH A MEMBER MAY REPORT ISSUES OR CONCERNS RELATING TO THE BEHAVIOR OF OTHER MEMBERS OF THE ONLINE DATING SERVICE ARISING OUT OF THEIR USE OF THE SERVICE.

(5) (a) ANY DATING SERVICE CONTRACT THAT DOES NOT COMPLY WITH THIS SECTION IS VOID AND UNENFORCEABLE.

(b) ANY DATING SERVICE CONTRACT THAT IS ENTERED INTO BY A BUYER IN RESPONSE TO WILLFULLY FRAUDULENT OR MISLEADING INFORMATION OR ADVERTISEMENTS OF THE DATING SERVICE IS VOID AND UNENFORCEABLE.

(c) NOTWITHSTANDING THE PROVISIONS OF ANY DATING SERVICE CONTRACT, IN ANY CASE IN WHICH A CONTRACT PRICE IS PAYABLE IN INSTALLMENTS AND THE BUYER IS RELIEVED FROM MAKING FURTHER PAYMENTS OR ENTITLED TO A REFUND UNDER THIS SECTION, THE BUYER IS ENTITLED TO RECEIVE A REFUND OR REFUND CREDIT OF THAT PORTION OF THE CASH PRICE THAT IS ALLOCABLE TO THE SERVICES NOT ACTUALLY RECEIVED BY THE BUYER. THE REFUND OF ANY FINANCE CHARGE SHALL BE COMPUTED ACCORDING TO THE "SUM OF THE BALANCE METHOD", ALSO KNOWN AS THE "RULE OF 78".

(d) ANY WAIVER BY A BUYER OF THE RIGHTS AFFORDED TO THE BUYER BY THIS SECTION IS VOID AND UNENFORCEABLE.

(6) (a) AN ONLINE DATING SERVICE SHALL PROVIDE NOTICE TO ALL OF ITS MEMBERS IN THIS STATE WHO THE ONLINE DATING SERVICE KNOWS HAVE PREVIOUSLY RECEIVED AND RESPONDED TO AN ON-SITE MESSAGE FROM A BANNED MEMBER. THE NOTICE MUST INCLUDE ALL OF THE FOLLOWING:

(I) THE USERNAME, IDENTIFICATION NUMBER, OR OTHER PROFILE IDENTIFIER OF THE BANNED MEMBER;

(II) A STATEMENT THAT THE BANNED MEMBER MAY HAVE BEEN USING A FALSE IDENTITY OR MAY ATTEMPT TO DEFRAUD OTHER MEMBERS;

(III) A STATEMENT THAT MEMBERS SHOULD NOT SEND MONEY OR PERSONAL FINANCIAL INFORMATION TO ANOTHER MEMBER; AND

(IV) AN ONLINE LINK THAT PROVIDES INFORMATION REGARDING WAYS TO AVOID ONLINE FRAUD OR BEING DEFRAUDED BY A MEMBER OF AN ONLINE DATING SERVICE.

(b) THE NOTIFICATION REQUIRED BY SUBSECTION (6)(a) OF THIS SECTION MUST BE:

(I) CLEAR AND CONSPICUOUS;

(II) SENT VIA E-MAIL, TEXT MESSAGE, OR OTHER APPROPRIATE MEANS OF COMMUNICATION CONSENTED TO BY THE MEMBER; AND

(III) SENT WITHIN TWENTY-FOUR HOURS AFTER THE FRAUD BAN IS INITIATED AGAINST THE BANNED MEMBER; EXCEPT THAT NOTIFICATION MAY BE SENT WITHIN THREE DAYS AFTER THE FRAUD BAN IS INITIATED IF, IN THE JUDGMENT OF THE ONLINE DATING SERVICE, CIRCUMSTANCES REQUIRE ADDITIONAL TIME.

(c) AN ONLINE DATING SERVICE WHOSE AGENTS AND EMPLOYEES ARE ACTING IN GOOD FAITH IS NOT LIABLE TO ANY PERSON, OTHER THAN THIS STATE OR ANY AGENCY, DEPARTMENT, OR POLITICAL SUBDIVISION OF THIS STATE, FOR DAMAGES RESULTING FROM:

(I) THE MEANS OF COMMUNICATION USED TO NOTIFY A MEMBER;

(II) WHEN NOTIFICATION IS SENT PURSUANT TO THIS SECTION; OR

(III) DISCLOSING ANY OF THE FOLLOWING INFORMATION:

(A) THAT A MEMBER HAS BEEN BANNED;

(B) THE USERNAME, IDENTIFICATION NUMBER, OR OTHER PROFILE IDENTIFIER OF THE BANNED MEMBER; OR

(C) THE REASON THAT THE ONLINE DATING SERVICE INITIATED THE FRAUD BAN OF A BANNED MEMBER.

(d) THIS SECTION DOES NOT CREATE A PRIVATE RIGHT OF ACTION OR DIMINISH OR ADVERSELY AFFECT THE PROTECTIONS AFFORDED IN 47 U.S.C. SEC. 230.

6-1-732. Automatic renewal contracts - unlawful acts - required disclosures - right to cancel - trial period offers - exemptions - definitions. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "AUTOMATIC RENEWAL CONTRACT" MEANS A PLAN OR ARRANGEMENT IN WHICH A PAID SUBSCRIPTION OR PURCHASING AGREEMENT IS AUTOMATICALLY RENEWED AT THE END OF A DEFINITE TERM FOR A SUBSEQUENT TERM OR ON A CONTINUOUS OR RECURRING BASIS.

(b) "AUTOMATIC RENEWAL OFFER TERMS" MEANS THE FOLLOWING CLEAR AND CONSPICUOUS DISCLOSURES:

(I) THAT AN AUTOMATIC RENEWAL CONTRACT WILL AUTOMATICALLY RENEW OR EXTEND AFTER THE INITIAL PERIOD FOR A SET TERM NOT TO EXCEED ONE YEAR UNLESS THE CONSUMER GIVES EXPRESS WRITTEN CONSENT FOR A LONGER RENEWAL TERM;

(II) A DESCRIPTION OF THE CANCELLATION POLICY THAT APPLIES TO THE OFFER;

(III) ANY RECURRING CHARGES THAT WILL BE CHARGED TO THE CONSUMER'S CREDIT CARD, DEBIT CARD, OR PAYMENT ACCOUNT WITH A THIRD PARTY AS PART OF AN AUTOMATIC RENEWAL CONTRACT;

(IV) THE LENGTH OF AN AUTOMATIC RENEWAL TERM; AND

(V) THE MINIMUM PURCHASE OBLIGATION, IF ANY.

(c) (I) "CLEAR AND CONSPICUOUS" OR "CLEARLY AND CONSPICUOUSLY" MEANS IN LARGER TYPE THAN THE SURROUNDING TEXT; IN CONTRASTING TYPE, FONT, OR COLOR TO THE SURROUNDING TEXT OF THE SAME SIZE; OR SET OFF FROM THE SURROUNDING TEXT OF THE SAME SIZE BY SYMBOLS OR OTHER MARKS IN A MANNER THAT CLEARLY CALLS ATTENTION TO THE LANGUAGE.

(II) IN THE CASE OF AN AUDIO DISCLOSURE, "CLEAR AND CONSPICUOUS" OR "CLEARLY AND CONSPICUOUSLY" MEANS IN A VOLUME AND CADENCE SUFFICIENT TO BE READILY AUDIBLE AND UNDERSTANDABLE.

(d) "CONSUMER" MEANS AN INDIVIDUAL WHO SEEKS OR ACQUIRES, BY PURCHASE OR LEASE, ANY GOODS, SERVICES, MONEY, OR CREDIT FOR PERSONAL, FAMILY, OR HOUSEHOLD PURPOSES.

(e) "TRIAL PERIOD OFFER" MEANS A SOLICITATION OFFERING A CONSUMER A PERIOD OF TIME IN WHICH TO SAMPLE A PRODUCT OR SERVICE, WHICH OFFER IS USED AS AN INDUCEMENT FOR THE CONSUMER TO MAKE A PURCHASE OF THE PRODUCT OR SERVICE OR A SIMILAR PRODUCT OR SERVICE.

(2) IT IS UNLAWFUL FOR A PERSON THAT OFFERS AN AUTOMATIC RENEWAL CONTRACT TO A CONSUMER IN THIS STATE TO:

(a) FAIL TO PRESENT THE AUTOMATIC RENEWAL OFFER TERMS IN A CLEAR AND CONSPICUOUS MANNER BEFORE THE AUTOMATIC RENEWAL CONTRACT IS EXECUTED. IN THE CASE OF AN OFFER THAT IS CONVEYED BY VOICE, THE PERSON MUST PRESENT THE TERMS IN TEMPORAL PROXIMITY TO THE REQUEST FOR THE CONSUMER'S CONSENT TO THE OFFER. IF THE OFFER INCLUDES A TRIAL PERIOD OFFER, THE OFFER MUST ALSO INCLUDE A CLEAR AND CONSPICUOUS EXPLANATION OF THE PRICE THAT WILL BE CHARGED AND ANY FURTHER PURCHASE OBLIGATIONS THAT WILL BE IMPOSED ON THE CONSUMER AFTER THE TRIAL PERIOD ENDS.

(b) UTILIZE AN ONLINE LINK THAT IS PRESENTED AS PART OF AN OFFER OF AN AUTOMATIC RENEWAL CONTRACT, WHICH ONLINE LINK DIRECTS A CONSUMER TO DETAILED INFORMATION ABOUT THE AUTOMATIC RENEWAL CONTRACT, UNLESS THE ONLINE LINK:

(I) IS AVAILABLE BEFORE A CONSUMER ELECTS TO PURCHASE ANY GOOD OR SERVICE SUBJECT TO THE AUTOMATIC RENEWAL CONTRACT;

(II) APPEARS DIRECTLY ADJACENT TO ANY ONLINE LINK USED BY THE CONSUMER TO PURCHASE ANY GOOD OR SERVICE SUBJECT TO THE AUTOMATIC RENEWAL CONTRACT; AND

(III) IS LABELED WITH, OR IS DIRECTLY ADJACENT TO, A CLEAR AND CONSPICUOUS DISCLOSURE THAT STATES THAT BY PURCHASING THE GOOD OR SERVICE, THE CONSUMER AGREES TO ENROLL IN AN AUTOMATIC RENEWAL CONTRACT;

(c) FAIL TO PROVIDE THE CONSUMER A WRITTEN ACKNOWLEDGMENT THAT INCLUDES THE AUTOMATIC RENEWAL OFFER TERMS, THE CANCELLATION POLICY,

AND INFORMATION REGARDING HOW TO CANCEL IN A MANNER THAT IS CAPABLE OF BEING RETAINED BY THE CONSUMER. IF THE OFFER OF AN AUTOMATIC RENEWAL CONTRACT INCLUDES A TRIAL PERIOD OFFER, THE PERSON SHALL ALSO DISCLOSE IN THE WRITTEN ACKNOWLEDGMENT HOW THE CONSUMER MAY CANCEL THE AUTOMATIC RENEWAL CONTRACT, AND THE PERSON SHALL ALLOW THE CONSUMER TO CANCEL THE CONTRACT BEFORE THE CONSUMER IS REQUIRED TO PAY FOR THE GOODS OR SERVICES.

(d) FAIL TO PROVIDE A SIMPLE, COST-EFFECTIVE, TIMELY, EASY-TO-USE, AND READILY ACCESSIBLE MECHANISM FOR CANCELING AN AUTOMATIC RENEWAL CONTRACT OR TRIAL PERIOD OFFER. A PERSON IS DEEMED TO COMPLY WITH THIS SUBSECTION (2)(d) IF THE PERSON OFFERS:

(I) A ONE-STEP ONLINE CANCELLATION LINK THAT IS:

(A) LOCATED ON THE PERSON'S WEBSITE OR CONTAINED IN AN ELECTRONIC DEVICE OR SERVICE OR AN ELECTRONIC COMMUNICATION TO THE CONSUMER; AND

(B) AVAILABLE TO THE CONSUMER IMMEDIATELY OR AFTER THE CONSUMER COMPLETES A REASONABLE AUTHENTICATION PROTOCOL USED SOLELY TO CONFIRM THAT THE CONSUMER IS AUTHORIZED TO MAKE CHANGES TO THE ACCOUNT; OR

(II) AN IN-PERSON MECHANISM FOR CANCELING AN AUTOMATIC RENEWAL CONTRACT OR TRIAL PERIOD OFFER, WHICH MECHANISM:

(A) IS AT A PHYSICAL LOCATION WHERE THE CONSUMER REGULARLY UTILIZES ANY GOODS OR SERVICES THAT ARE SUBJECT TO THE AUTOMATIC RENEWAL CONTRACT; AND

(B) SATISFIES THE REQUIREMENTS OF THIS SUBSECTION (2)(d).

(3) IF A MATERIAL CHANGE OCCURS IN THE TERMS OF AN AUTOMATIC RENEWAL CONTRACT THAT HAS BEEN ACCEPTED BY A CONSUMER IN THIS STATE, THE PERSON SHALL PROVIDE TO THE CONSUMER, IN A MANNER THAT MAY BE RETAINED BY THE CONSUMER, A CLEAR AND CONSPICUOUS NOTICE OF THE MATERIAL CHANGE AND INFORMATION REGARDING CANCELLATION OF THE AUTOMATIC RENEWAL CONTRACT, INCLUDING INFORMATION CONCERNING THE MECHANISM DESCRIBED IN SUBSECTION (2)(d) OF THIS SECTION.

(4)(a) A PERSON THAT SELLS A GOOD OR SERVICE TO A CONSUMER PURSUANT TO AN AUTOMATIC RENEWAL CONTRACT SHALL NOTIFY THE CONSUMER THAT THE AUTOMATIC RENEWAL CONTRACT WILL AUTOMATICALLY RENEW OR CONTINUE UNLESS THE CONSUMER CANCELS THE AUTOMATIC RENEWAL CONTRACT. THE NOTICE MUST INFORM THE CONSUMER OF THE PROCESS FOR CANCELING THE AUTOMATIC RENEWAL CONTRACT, AND THE PROCESS MUST PROVIDE CLEAR AND ACCURATE INFORMATION ABOUT THE IDENTITY OF THE SENDER AND BE CONSISTENT WITH SUBSECTION (2)(d) OF THIS SECTION. THE PERSON SHALL PROVIDE THE NOTICE BY:

(I) PHYSICAL MAIL;

(II) E-MAIL; OR

(III) ANOTHER EASILY ACCESSIBLE FORM OF COMMUNICATION, SUCH AS A TEXT MESSAGE OR A MOBILE PHONE APPLICATION, IF THE CONSUMER SPECIFICALLY AUTHORIZES THE PERSON TO PROVIDE NOTICE IN SUCH FORM OR IF THE CONSUMER CUSTOMARILY USES SUCH FORM TO COMMUNICATE WITH THE PERSON.

(b) A PERSON THAT SELLS A GOOD OR SERVICE TO A CONSUMER PURSUANT TO AN AUTOMATIC RENEWAL CONTRACT SHALL SEND THE NOTICE DESCRIBED IN SUBSECTION (4)(a) OF THIS SECTION AT LEAST TWENTY-FIVE AND NO MORE THAN FORTY DAYS BEFORE THE FIRST AUTOMATIC RENEWAL AND AT LEAST TWENTY-FIVE AND NO MORE THAN FORTY DAYS BEFORE EACH AUTOMATIC RENEWAL THEREAFTER; EXCEPT THAT, IF THE INITIAL AUTOMATIC RENEWAL OR ANY SUBSEQUENT AUTOMATIC RENEWAL IS FOR A TERM OF LESS THAN TWELVE MONTHS, THE PERSON SHALL SEND THE NOTICE:

(I) AT LEAST ONCE IN THE PERIOD BETWEEN TWENTY-FIVE AND FORTY DAYS DIRECTLY PRECEDING THE FIRST AUTOMATIC RENEWAL THAT WOULD EXTEND THE CONTRACT BEYOND A CONTINUOUS TWELVE-MONTH PERIOD; AND

(II) AT LEAST ONCE IN THE PERIOD BETWEEN TWENTY-FIVE AND FORTY DAYS DIRECTLY PRECEDING ANY SUBSEQUENT AUTOMATIC RENEWAL THAT WOULD EXTEND THE CONTRACT BEYOND ANY ADDITIONAL CONSECUTIVE AND CONTINUOUS TWELVE-MONTH PERIOD.

(5) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE CONTRARY, THIS SECTION DOES NOT APPLY TO:

(a) A SERVICE PROVIDED BY A PERSON PURSUANT TO A FRANCHISE ISSUED BY A POLITICAL SUBDIVISION OF THE STATE OR A LICENSE, FRANCHISE, CERTIFICATE, OR OTHER AUTHORIZATION ISSUED BY THE PUBLIC UTILITIES COMMISSION CREATED IN SECTION 40-2-101;

(b) A SERVICE PROVIDED BY A PERSON THAT IS REGULATED BY THE FEDERAL COMMUNICATIONS COMMISSION, THE FEDERAL ENERGY REGULATORY COMMISSION, OR THE PUBLIC UTILITIES COMMISSION CREATED IN SECTION 40-2-101;

(c) AN ENTITY REGULATED BY THE DIVISION OF INSURANCE;

(d) A BANK OR BANK HOLDING COMPANY THAT IS LICENSED UNDER STATE OR FEDERAL LAW, OR A SUBSIDIARY OR AFFILIATE OF SUCH A BANK OR BANK HOLDING COMPANY;

(e) A CREDIT UNION OR OTHER FINANCIAL INSTITUTION THAT IS LICENSED UNDER STATE OR FEDERAL LAW; OR

(f) AN AIR CARRIER AS DEFINED IN AND REGULATED UNDER THE "FEDERAL AVIATION ACT OF 1958", 49 U.S.C. SEC. 40101 ET. SEQ., AS AMENDED, INCLUDING THE FEDERAL "AIRLINE DEREGULATION ACT OF 1978", 49 U.S.C. SEC. 41713, AS AMENDED.

(6) THE ATTORNEY GENERAL AND THE DISTRICT ATTORNEYS OF THE STATE HAVE EXCLUSIVE AUTHORITY TO ENFORCE THIS SECTION.

SECTION 2. Act subject to petition - effective date - applicability. (1) This act takes effect January 1, 2022; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within the ninety-day period after final adjournment of the general assembly, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2022 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) This act applies to dating service contracts and automatic renewal contracts executed on or after the applicable effective date of this act.

Approved: July 2, 2021