PA 23-98—sSB 1058
General Law Committee
Judiciary Committee
Appropriations Committee

AN ACT CONCERNING CHARITABLE ORGANIZATIONS, TELECOMMUNICATIONS AND THE ATTORNEY GENERAL'S RECOMMENDATIONS REGARDING CONSUMER PROTECTION

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The act addresses state entities' handling of documents related to investigations of alleged Connecticut Unfair Trade Practices Act (CUTPA), antitrust, or health or human services violations. It also makes technical changes. By law, CUTPA is a consumer protection law that prohibits anyone from engaging in unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce (CGS § 42-110b(a)).
EFFECTIVE DATE: July 1, 2023, except the provisions on CUTPA investigations are effective upon passage.

CUTPA Investigations (§ 1)

By law, the Department of Consumer Protection (DCP) commissioner, attorney general, or their employees must publicly disclose records related to an investigation of an alleged CUTPA violation under the state's Freedom of Information Act. This includes any complaint initiating the investigation and all records related to its disposition or settlement. While the investigation's completion is pending, the act allows the commissioner to temporarily withhold from public disclosure any documents containing responses to investigative demands.

Antitrust and Health and Human Services Investigations (§§ 2 & 3)

By law, the attorney general, his deputy, or any designated assistant attorney general must not make public any documents provided to them in association with an investigation of alleged (1) state antitrust act violations, provided on demand or voluntarily, or (2) false claims and other prohibited acts related to state-

administered health or human services programs, provided on demand. When the investigation is complete, or when any action or proceeding has reached its final determination, the documents must be returned to the person who provided them. Under the act, if the documents or other information were provided electronically, they must be erased.

§§ 4-7 — CONSUMER PRIVACY

Adds "precise geolocation data" to the types of personal information subject to data breach notice requirements; changes the penalty and enforcement mechanism for personal information safeguarding requirements; and changes the liability threshold for data controllers

Personal Information and Breach Notices (§ 4)

By law, any person who owns, licenses, or maintains computerized data that includes personal information must comply with certain reporting and mitigation requirements when personal information is reasonably believed to have been breached. The act adds "precise geolocation data" to the types of personal information subject to these requirements, when in combination with a person's (1) first name or first initial and (2) last name. By law, "precise geolocation data" is information derived from technology (e.g., GPS-level latitude and longitude coordinates or other mechanisms) that directly identifies someone's specific location with precision and accuracy within a 1,750-foot radius. It excludes the content of communications and data related to utility metering systems.

Existing law generally requires the person or entity subject to the breach to notify (1) any state resident whose personal information was breached and (2) the attorney general. The law generally requires this notice in specific formats (i.e., written, by phone, or electronically) but creates an exception, allowing a "substitute notice" if the notifier demonstrates that the cost would exceed $250,000; the group to be notified would exceed 500,000 people; or the notifier lacks sufficient contact information. The act specifies that the notifier must demonstrate that these substitute notice criteria are met in the notice about the breach it gives to the attorney general. (By law, substitute notice includes emailing affected people, posting on the notifier's website, and notifying major statewide media of the breach.)

By law, failure to comply with breach requirements is an unfair trade practice under CUTPA. The act additionally allows civil penalties collected for failure to comply with these requirements to be deposited in the privacy protection guarantee and enforcement account.

Among other things, CUTPA allows the DCP commissioner to investigate complaints, issue cease and desist orders, and order restitution in certain cases. While individuals generally can sue under CUTPA, the act specifies that it does not create a private right of action and disallows individuals and classes from suing under CUTPA for violations of these safeguarding requirements. Under CUTPA, courts may issue restraining orders; award actual and punitive damages, costs, and reasonable attorney's fees; and impose civil penalties of up to $5,000 for willful violations and $25,000 for restraining order violations (CGS § 42-110a et seq.).

Safeguarding Requirements (§ 5)

A separate existing law requires people in possession of other types of personal information to (1) safeguard the data, and computer files and documents containing it, from misuse by third parties and (2) destroy, erase, or make the data, computer files, and documents unreadable before disposing of them. These safeguarding requirements apply to information associated with a particular individual through one or more identifiers (e.g., Social Security numbers, driver's license numbers, state identification card numbers, account numbers, debit or credit card numbers, passport numbers, alien registration numbers, health insurance identification numbers, or any military identification information).

Existing law subjects violators to a $500 civil penalty for each violation (up to $500,000 for a single event), and penalties only apply to intentional violations. The act additionally makes a violation an unfair trade practice under CUTPA. Additionally, the act allows, rather than requires, civil penalties to be deposited into the privacy protection guaranty and enforcement account (see below).

Under prior law, DCP enforced safeguarding requirements unless the person possessing data was supervised by another state agency under a license, registration, or certificate. In that case, the other state agency enforced them. The act exempts the attorney general's actions from these provisions.

Personal Data Framework (§ 6)

Existing law prohibits controllers (i.e., individuals or legal entities that determine the purpose and means of processing personal data) from processing a consumer's personal data for targeted advertising, or selling the consumer's data without the consumer's consent, for consumers ages 13-15. Under prior law, for the prohibition to apply, the controller had to have actual knowledge that the consumer's age was in this range and willfully disregard it. Under the act, either actual knowledge or willful disregard of the consumer's age makes a controller subject to the prohibition.

EFFECTIVE DATE: July 1, 2023, except the provisions on data breach requirements are effective October 1, 2023.

Background — Related Act

PA 23-56, § 4, contains a provision identical to § 6 prohibiting a controller that has actual knowledge or willfully disregards the consumer's age from processing the consumer's data for targeted advertising without the consumer's consent.

§ 7 — TICKET PRICING

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

For entertainment events where a service charge will be imposed, existing law

requires advertisements to conspicuously disclose each ticket's total price and the portion of the total price that represents a service charge. Prior law did not define "service charge," but the act defines it as any additional fee or charge that is designated as an "administrative fee," "service fee," "surcharge," or another substantially similar term.

The act additionally requires operators who charge an admission price for a place of entertainment to print, endorse, or otherwise disclose on each ticket face for an event the (1) established ticket price and (2) final price of the ticket if the operator or his or her agent sells or resells it (including at auction). (PA 23-191, § 5, specifies that movie tickets are not deemed tickets to an entertainment event.)

The act requires any person who facilitates ticket sales or resales for an entertainment event to disclose the following:

1. the total ticket price, including all service charges required to buy the ticket, and
2. in a clear and conspicuous manner, to the ticket purchaser, the portion of the ticket price in dollars attributable to service charges charged to the ticket purchaser.

The act requires these disclosures to be displayed in the ticket listing before the ticket is selected for purchase. It prohibits any increase of the total ticket price during the ticket purchasing process (i.e., from the time when the ticket is selected for purchase and ending when it is purchased), other than a reasonable service charge to deliver a nonelectronic ticket if the charge is (1) based on the delivery method selected by the ticket purchasers and (2) disclosed to the purchaser before purchase.

The act prohibits (1) false or misleading disclosures and (2) disclosures from being presented more prominently than the total ticket price or in a font size as large or larger than the font size of the total ticket price.

EFFECTIVE DATE: October 1, 2023

§§ 8-14 & 25 — TELEMARKETING AND DO NOT CALL REGISTRIES

Broadens applicability of the state's telemarketing laws, Do Not Call laws, and related restrictions; prohibits initiating a telephonic sales call using various types of technology to contact a state resident or telephone number with a Connecticut area code; establishes rebuttable presumptions on call locations

Telemarketers, Contracts, and Payments (§§ 8 & 10-12)

The act broadens the applicability of the state's telemarketing laws, and in doing so, makes numerous minor and conforming changes. Among other changes, the act generally prohibits telemarketers from making a telephonic sales call to a consumer without the consumer's prior express written consent. Prior law only prohibited telephone solicitors from making these calls if they were unsolicited, automatically dialed, and recorded.

Under existing law, an oral agreement between a consumer and a telemarketer is not binding, valid, or enforceable unless the telemarketer receives a written, signed contract disclosing the agreement's full terms. If the telemarketer sends

goods or services to the consumer without this written contract, they are considered an unconditional gift with no obligation to the consumer (CGS § 42-285).

Telemarketers. Under prior law, a "telemarketer" was any person who initiated the sale, lease, or rental of consumer goods or services, or offered gifts or prizes with the intent to sell, lease, or rent consumer goods, by methods that include (1) telephone or (2) television, radio, or written notice that does not describe goods or services or disclose a price and instead included a request to contact the seller by telephone. Under the act, "consumer goods or services" are articles or services purchased, leased, exchanged, or received primarily for personal, family, or household purposes, including warrantees, gift cards, stocks, bonds, mutual funds, annuities, and other financial products.

The act expands the definition of telemarketer to include persons who make, or cause to be made, a telephonic sales call (see below) and those who use the following methods or technologies:

1. automated dialing system, which is a device that (a) automatically dials a telephone number or (b) makes a connection to an end user through an automated system used to dial a telephone number and transmit a voice communication;
2. soundboard technology, which is a technology that allows someone to communicate with a call recipient in real time by playing a recorded audio message instead of using his or her voice;
3. over-the-top message, which is a text-based communication on a platform that uses existing Internet services to deliver messages (e.g., WhatsApp and Facebook Messenger); or
4. text or media message, which is a message consisting of text or any image, sound, or other information transmitted by or to a device identifiable through a 10-digit telephone number or N11 service code.

Emails sent to email addresses are not text or media messages under the act. A "text or media message" includes a short message and multimedia message service that contains written, audio, video, or photographic contact sent electronically to a mobile telephone or mobile electric device telephone number.

The act specifies that "telemarketers" include telemarketers' affiliates or subsidiaries doing business in Connecticut (e.g., conducting telephonic sales calls from within Connecticut to state residents or to a Connecticut area code). A "voice communication" is a communication made by an individual or an artificial or prerecorded message, including a voice message transmitted directly to a recipient's voicemail regardless of whether the recipient's phone rings as part of the transmission. It does not include an automated warning required by law.

Prior law distinguished a telephone solicitor from a telemarketer. The act eliminates this distinction.

Telephonic Sales Calls. The act also expands the definition of a "telephonic sales call." Under prior law, a telephonic sales call was a telephone call made by a telephone solicitor, or a text or media message sent by or on behalf of a telephone solicitor to:

1. engage in a marketing or sales solicitation;
2. solicit a credit extension for consumer goods or services; or

3. obtain information that will or may be used for a marketing or sales solicitation or exchange of, or credit extension for, consumer goods or services.

The act establishes a more expansive definition of telephonic sales call that also applies (1) to telephone calls made on a telemarketer's behalf and (2) regardless of whether the calls are made using a live voice, automated dialing system, recorded message device, soundboard technology, or over-the-top messaging or text or media messaging. It applies to calls made to a Connecticut consumer or telephone number with a Connecticut area code. It also includes as telephonic sales calls those made to:

1. encourage the consumer to share personally identifying information or buy or invest in any property, goods, services, or other things of value if the consumer did not previously express interest in doing so or
2. solicit the consumer to donate any money, property, goods, services, or other thing of value if the consumer did not previously express interest in doing so.

The act defines a "marketing or sales solicitation" as the initiation of a communication, including through the technologies described above, to encourage the purchase or rental of, or investment in, property, goods, services, or anything of value transmitted to a Connecticut consumer or telephone number with a Connecticut area code. It excludes communication to these consumers (1) with their prior express written consent following a detailed disclosure; (2) when there is an established business relationship as defined under the act; or (3) in response to a consumer's visit to an establishment selling, leasing, or exchanging consumer goods or services at a fixed location. The act eliminates an additional exclusion under prior law for calls or messages made by a tax-exempt nonprofit.

Under the act, "personally identifying information" is an individual's birthday, mother's maiden name, driver's license number, Social Security number, health insurance identification number, financial account number, security code or personal identification number, or government-issued identification number that is not otherwise made directly available to the public.

Exceptions. Under the act, telephonic sales calls exclude the following types of calls or messages:

1. those made to respond to a request or inquiry from a consumer who resides in the state, including a call or message about an item the consumer bought from the telemarketer during the previous 12-month period;
2. those made by a nonprofit organization to a consumer who is a state resident listed as a bona fide or active member of the organization;
3. those limited to polling, soliciting votes, or expressing an idea or opinion;
4. those made as part of a business-to-business contact;
5. those made to a consumer who resides in the state who granted prior express written consent (see below) to receiving a call or message;
6. those sent primarily in connection with an existing debt or contract that has not been completely paid or performed;
7. those sent to the telephone solicitor's existing customer unless the customer informed the solicitor, orally or in writing, that he or she does not wish to

receive calls or messages from the solicitor; and

8. those sent for a religious, charitable, political, or other noncommercial purpose.

Written Contracts (§§ 10 & 11). The act expands the information that the written contract must contain to include the telemarketer's (1) headquarters address and (2) home state or country for entity registration purposes. It also specifies that the telemarketer's listed name must be its legal name. If the telemarketer is not the seller, the contract must instead include the same information for the seller.

The act also expands the types of payment that are subject to requirements for a written contract. Existing law prohibits telemarketers from accepting payments from a consumer or submitting a charge to a consumer's credit card unless the telemarketer receives a written and signed contract from the consumer. The act also applies this prohibition to payment in any form and charges to a charge card, debit card, or electronic payment platform account. Under existing law, when the consumer pays a telemarketer who has not received a written signed contract from the consumer, the telemarketer must refund the consumer's payment or credit the consumer's account. The act specifies that this obligation is for a full refund and must be completed immediately.

Connecticut Transactions (§ 12). Under prior law, any transaction occurring between a telemarketer and a consumer was considered to have taken place in Connecticut if either the telemarketer or the consumer was domiciled in Connecticut. The act instead considers transactions to have taken place in Connecticut if the (1) telemarketer is a state resident or a business entity registered with, or required to be registered with, the Secretary of State to do business in Connecticut; (2) consumer is a Connecticut resident; or (3) telemarketer contacted the consumer using a telephone number with a Connecticut area code.

The act also establishes a rebuttable presumption that telephonic sales calls have taken place in the state if the communication is made to a Connecticut area code or a Connecticut consumer.

Do Not Call Registries and Other General Restrictions (§ 13)

Both state and federal laws establish "Do Not Call" registries. In practice, the state registry is populated with information from the federal registry. The act specifically requires DCP's state registry to be identical to the federal registry and makes related conforming changes.

Prior law prohibited telephone solicitors from making unsolicited telephonic sales calls to any consumer if the consumer's name and telephone number appeared on the state registry. The act generally retains this prohibition by specifying that violations of federal "Do Not Call" registry laws, or calling a consumer who has specifically requested not to receive calls from the communicating entity, is a violation of the state's telemarketing laws. The act also removes prior law's exemption for calls made by telephone solicitors that have been doing business in the state for less than a year when the consumer has not previously stated that the consumer no longer wishes to receive telephonic sales calls.

Prior Express Written Consent. Regardless of the registry, the act prohibits

telemarketers from making a telephonic sales call to a consumer without the consumer's prior express written consent. Prior law only prohibited telephone solicitors from making these calls if they were unsolicited, automatically dialed, and recorded, and referenced a federal definition of prior express written consent applicable to calls made with an automatic dialing system or an artificial or previously recorded voice (47 C.F.R. § 64.1200). Under the act, "prior express written consent" is a consumer-signed written agreement that (1) discloses how the telemarketer will call or contact the consumer and the consumer's telephone number and (2) clearly and conspicuously authorizes the telemarketer to deliver, or cause to be delivered, these disclosed communications.

Disclosure During Call and Removal From Call List. Under the act, people making permissible telephonic sales calls to a consumer's residential, mobile, or telephonic paging device telephone number must disclose, within the first 10 seconds of the call, the (1) caller's identity, (2) call's purpose, and (3) entity for which the person is making the call.

The act requires people making telephonic sales calls to ask at the beginning of the call whether the consumer wishes to continue the call, end the call, or be removed from the telephone solicitor's list. Under the act, for any telephonic sales call, telephone solicitors must end the call within 10 seconds after a consumer indicates his or her wish to end the call. If a consumer informs the telephone solicitor at any point during the call that the consumer does not wish to receive future telephonic sales calls or that the consumer wants the solicitor to remove his or her name, telephone number, or other contact information from the telephone solicitor's list, the telephone solicitors must take the following actions:

1. inform the consumer that his or her contact information will be removed from the solicitor's list;
2. end the call within 10 seconds after the consumer expresses these wishes;
3. refrain from making any more telephonic sales calls to the consumer at any of their associated numbers; and
4. refrain from giving or selling the consumer's name, telephone number, or other contact or personally identifying information to any other entity, or receiving anything of value from any other entity in exchange for the consumer's name, telephone number, or other information.

Call Hours. Prior law prohibited telephone solicitors from making unsolicited telephonic sales calls to a consumer between 9:00 p.m. and 9:00 a.m. local time at the consumer's location. The act extends this period by one hour (8:00 p.m. to 9:00 a.m.) and applies the prohibition to telephonic sales calls (1) made to any consumer residential, mobile, or telephonic paging device telephone number and (2) not otherwise prohibited under the act.

Blocking Devices. Existing law prohibits telephone solicitors from intentionally using blocking devices to circumvent a consumer's use of caller identification services. The act expands this prohibition by also applying it to telemarketers, and to all use of blocking devices rather than only intentional use. The act also expands the type of caller identification systems subject to the protection to include those that allow a consumer to see the caller name or location of an incoming telephonic sales call, rather than just the telephone number.

The act eliminates a provision requiring the DCP commissioner to compensate anyone providing material information that results in an investigation of a telephone solicitor and enforcement of this blocking prohibition (§ 25).

Limitations on Other Technologies. For consumers whose mobile telephone or mobile electronic device telephone numbers do not appear on the state registry, existing law prohibits telephone solicitors from sending text or media message to the number to market or solicit sales of consumer goods without the consumer's prior express written consent. The act expands this prohibition to apply to "calls" generally.

The act makes related conforming changes to retain an exemption in existing law for communications from a telecommunications company when the (1) company does not charge a fee and (2) message is connected to an existing unpaid debt, an existing contract between the company and the customer, a wireless emergency alert authorized by federal law, or the customer's previous request for customer service.

The act eliminates a more general provision prohibiting telephone solicitors from making unsolicited telephonic sales calls to consumers (1) that are text or media messages to be received on a mobile telephone or mobile electronic device, (2) in the form of faxes, or (3) by using a recorded message device.

The act references the federal registry rather than the state registry for an existing provision requiring any person who republishes or compiles names, addresses, or phone numbers to sell to telephone solicitors for marketing or sales solicitation purposes to exclude consumers who appear on the registry. Existing law authorizes DCP to adopt regulations on provisions governing the availability and distribution of the state registry and notice requirements for consumers wishing to be included on it. The act requires these regulations to be consistent with information on the federal registry.

CUTPA and Fine for Violations. Under existing law, violations of Do Not Call registry laws are CUTPA violations. The act eliminates a provision exempting telephone solicitors from CUTPA liability for making telephonic sales calls to consumers on the registry if the telephone solicitor has demonstrated the following:

1. the telephone solicitor established and implemented written procedures and trained its employees to follow them to comply with the law,
2. the telephone solicitor deleted from its call list any listing of a consumer on the state registry, and
3. the call was made inadvertently.

Under the act, as was generally the case under prior law, anyone liable under these provisions is subject to a fine of up to $20,000 for each violation, in addition to any CUTPA penalty.

Enabling a Voice Communication or Sales Call (§ 9)

The act also prohibits any person (i.e., an individual or legal entity) from providing substantial assistance or support to someone initiating a voice communication or telephonic sales call that enables the initiator to initiate, originate, route, or transmit a voice communication or telephonic sales call if the

person knows, or avoids knowing, that the initiator is engaged or intends to engage in fraud or any practice that violates telemarketing and Do Not Call provisions under the act and existing law or CUTPA.

The act's provisions do not prohibit the following:

1. any person from designing, manufacturing, or distributing any component, product, or technology that has a commercially significant use other than circumventing or violating the act's provisions;
2. any telecommunications provider or other entity from providing Internet access to exclude initiation of a voice communication or text message; or
3. any terminating provider (a telecommunications provider upon whose network a voice communication terminates to a call recipient or end user) from taking any action concerning completion of a voice communication (e.g., restoring a dropped call).

The act establishes a rebuttable presumption that a voice communication or telephonic sales call made, or attempted, to any telephone number with a Connecticut area code or to a Connecticut resident has taken place in the state.

The act makes violations unfair trade practices under CUTPA and requires violators to be fined up to $20,000 in addition to any CUTPA penalties.

EFFECTIVE DATE: October 1, 2023

§ 15 — PAID SOLICITORS' DISCLOSURES

Makes several changes in the Connecticut Solicitation of Charitable Funds Act, generally codifying recent caselaw that deemed certain provisions regulating paid solicitors unenforceable on constitutional grounds

The act makes several changes in the Connecticut Solicitation of Charitable Funds Act ("charitable funds act"), generally codifying recent caselaw that deemed certain provisions regulating paid solicitors unenforceable on constitutional grounds (see *Background — Charitable Funds Act*). Regarding registered paid solicitors, the act:

1. reduces, from 20 days to one business day, the prior notice a solicitor must give to DCP before starting a campaign (i.e., by filing his or her contract and solicitation notice form);
2. eliminates the requirement that copies of the charitable campaign solicitation literature, including the text of any proposed oral solicitations, be shared with DCP ahead of the campaign;
3. eliminates the requirement that a solicitor, before making an oral solicitation, disclose the percentage of the gross revenue that the organization will receive; and
4. correspondingly eliminates the requirement that a written confirmation of an oral pledge include information on the percentage of revenue the organization will receive.

Additionally, the act eliminates the requirement that DCP publicize on its website the (1) terms of the contract between the solicitor and organization, (2) campaign dates, and (3) percentage of fundraising revenue the solicitor will keep. The act also eliminates the DCP commissioner's authority to publicize this

information elsewhere as he deems appropriate.

The act narrows the solicitation campaign information solicitors must provide to DCP upon request. Under the act, while solicitors must still maintain a record of contributors' names and addresses (if known), they are no longer required to share this information with DCP. As under prior law, solicitors must still provide DCP, if requested, information on the contribution dates and amounts. Prior law prohibited the department from disclosing this information, except if necessary for investigative or law enforcement purposes. The act eliminates this restriction on DCP's authority to disclose this information.

EFFECTIVE DATE: Upon passage

Background — Charitable Funds Act

By law, the charitable funds act requires charitable organizations that solicit money or support in Connecticut to register with DCP, unless they are exempt (e.g., religious and parent-teacher organizations, certain organizations that normally receive less than $50,000 in contributions annually). Paid solicitors (and some fundraising counsel) are also required to register, post a bond, and file certain reports (CGS §§ 21a-190d to 21a-190f).

Background — Related Caselaw on Paid Solicitors

In 2021, the U.S. District Court for the District of Connecticut issued a preliminary injunction enjoining DCP from enforcing, on the grounds that they likely violated free speech rights, the charitable funds act's requirements that solicitors:

1. give DCP 20 days' notice, and provide DCP copies of the text of any intended solicitation, before starting a campaign and
2. keep records of donors and donations for DCP to inspect.

Additionally, while the court found that the act's requirement that solicitors disclose to prospective donors the percentage of a contribution that the charitable organization would receive did not appear to comport with the First Amendment and U.S. Supreme Court caselaw, it did not enjoin DCP from enforcing this requirement, as the department said that it had already stopped enforcing it (*Kissel* v. *Seagull*, 552 F. Supp. 3d 277 (2021)).

§§ 16 & 17 — CHARITABLE ORGANIZATIONS AUDIT REQUIREMENT

Raises the revenue threshold above which a registered charitable organization must submit to a formal audit, while allowing smaller organizations to instead submit to a CPA's financial "review report"

Under prior law, under the charitable funds act (see *Background — Charitable Funds Act* for § 15, above), charitable organizations with more than $500,000 in annual gross revenue must include a certified public accountant's (CPA) audit report in the annual financial report they submit as part of the DCP registration process. Under the act, beginning with annual reports due after July 1, 2023, the

following applies:

1. organizations with over $1 million in gross revenue must only attest in their annual report that a CPA completed the audit and
2. organizations with gross revenues over $500,000 and not exceeding $1 million can instead attest that a CPA completed an audit or financial review report.

EFFECTIVE DATE: Upon passage

Background — Related Act

PA 23-99, §§ 30 & 31, contains identical provisions on charitable organization audits and financial review reports.

§ 18 — TV SERVICE CANCELLATIONS

Requires cable-TV and other TV service providers to give customers a prorated rebate when they cancel or downgrade their service before the end of the billing cycle; prohibits the providers from charging for service after a cancellation request

The act requires community antenna (i.e., cable) TV companies and certified competitive video service providers (e.g., Frontier or Verizon) to give customers a rebate when they request a disconnection, service downgrade, or cancellation before the last day of the monthly billing period. The rebate must be prorated for all of the billing cycle's days after the disconnection, downgrade, or cancellation. A certified competitive video services provider is an entity offering video service under a certificate of video franchise authority (CVFA) issued by the Public Utilities Regulatory Authority (PURA). In practice, all cable companies in the state hold CVFAs.

Prior law prohibited cable-TV companies from charging customers (1) disconnection fees; (2) service downgrade fees that exceed the company's costs for the downgrade; or (3) 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. The act broadens this law to (1) also cover certified competitive video services providers and (2) prohibit both types of providers from charging for service after a cancellation request. It also eliminates the prohibition on charging customers service downgrade fees that exceed the company's costs for the downgrade (PA 23-191, § 3, reinstates this prohibition and specifies that this law does not relieve a subscriber from responsibility for any charges (1) incurred as of the subscription termination, (2) for unreturned or damaged equipment, or (3) for balances owed on equipment bought from the company).

EFFECTIVE DATE: October 1, 2023

§ 19 — CABLE AND TELECOMMUNICATIONS MERGERS AND ACQUISITIONS

Requires PURA's approval for changes in control (e.g., mergers) of certain cable-TV, telecommunications, and internet companies

The act requires PURA to approve changes in control (e.g., mergers) of certain cable-TV, telecommunications, and internet companies.

By law, anyone seeking a change in control over a PURA-regulated utility (e.g., electric, gas, and water utilities) must first apply to PURA for approval. This applies to mergers and actions that create a holding company or change control of an existing holding company. The act extends these requirements to the following types of companies:

1. video service providers with a certificate of cable franchise authority (CCFA) or a CVFA (i.e., cable-TV companies);
2. certified telecommunications providers; and
3. broadband internet access service (BIAS) providers (PA 23-191, § 4, removes BIAS providers from all of this act's provisions).

Under the act, these requirements apply to companies that supply services within the state or any holding company doing the principal part of its business in the state.

The act also extends to these companies (and holding companies with control over them) a provision prohibiting 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 23-191, § 4, undoes this change).

Under the act, holding companies with control over cable-TV companies, certified telecommunications providers, and BIAS providers must annually file with PURA a copy of their annual report to stockholders or a comprehensive audit and report of its accounts and operations.

EFFECTIVE DATE: July 1, 2023

Actions Subject to PURA's Approval

The law 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. These entities must receive PURA's approval before (1) taking action to become a holding company; (2) acquiring control over a holding company; or (3) taking any action that would, if successful, cause it to become or to acquire control over a holding company. The act extends this requirement to holding companies that control cable-TV companies, certified telecommunications providers, and BIAS providers.

As under existing law for PURA-regulated utilities, the companies subject to this requirement under the act must pay PURA's reasonable expenses to carry out its duties by depositing a $50,000 surety bond with PURA to indemnify the authority for its expenses.

Similarly, the law requires companies (gas, water, telephone, and electric); holding companies; and officials, boards, or commissioners acting under certain

governmental authorities other than the state, to apply for PURA's approval when:

1. interfering with PURA-regulated utilities or their holding companies, or attempting to do so, or
2. exercising control over PURA-regulated utilities or their holding companies, or attempting to do so.

The act extends this requirement to holding companies that control cable-TV companies, certified telecommunications providers, and BIAS providers. The law, unchanged by the act, includes an exception for federally regulated interstate commerce.

(PA 23-191, § 4, 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. It also (1) exempts federally regulated interstate commerce from the approval requirement for cable-TV companies and certified telecommunications providers becoming holding companies and (2) 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.)

By law, "control" is possessing power to direct a company's management and policies (e.g., through owning voting securities or being able to change the composition of the company's board of directors). The law presumes that control exists if a person owns at least 10% of a company's voting securities, but this may be rebutted in a hearing. Certain actions (a revocable proxy, consent given in response to a public proxy, or consent solicitations under federal securities laws) do not necessarily constitute control unless a participant announces intent to effect a merger, consolidation, reorganization, business combination, or extraordinary transaction. (PA 23-191, § 4, creates a separate presumption of control for cable-TV companies and certified telecommunications providers, and their holding companies, if a person owns at least 40% of their voting securities, which may be rebutted if, after a hearing, PURA finds the ownership does not in fact confer control.)

Cable-TV Companies, Certified Telecommunications Providers, and BIAS Providers. Under existing law, cable-TV companies may operate under a CCFA that applies to a specific geographic area or a CVFA that applies statewide. In practice, all cable companies operating in the state hold CVFAs, and most hold both certificates.

Under existing law, a "certified telecommunications provider" is an entity PURA approves to provide intrastate telecommunications services.

A "BIAS service provider" is any entity that provides these services through facilities occupying public highways or streets authorized by PURA, including through a certificate of public convenience and necessity, a CVFA, a CCFA, or as a certified telecommunications provider (CGS § 16-330a).

PURA Application Review and Process

The act subjects cable-TV companies, telecommunication services providers,

and BIAS providers to an application and review process similar to the one the law requires for PURA-regulated utilities.

By law, once someone files an application, PURA must give notice of a public hearing to the applicant within 30 business days, hold the hearing within 60 business days, and make its determination within 200 days, unless the applicant agrees to an extension. PURA may also extend its deadline to make a determination by up to 30 days if it meets certain notice requirements. If PURA fails to take these actions within this timeframe, the application is assumed to be approved. The act applies the same process for applications from cable-TV companies, telecommunications services providers, and BIAS providers but sets a separate 120-day deadline for PURA's determinations on these applications (PA 23-191, § 4, changes this deadline to 180 days and explicitly limits PURA to one 30-day extension).

PURA must investigate applications and may approve or disapprove an application or any part of one under terms and conditions the authority deems necessary or appropriate. As part of its investigation, PURA may (1) request companies or holding companies subject to a proposed acquisition for their views on the proposed acquisition, (2) allow the company or holding company to participate in the hearing, and (3) order parties to refrain from communicating with their shareholders (PA 23-191, § 4, removes PURA's authority to issue this order to cable-TV companies and certified telecommunications providers).

In making its determination, PURA must consider (1) the applicant's financial, technological, and managerial suitability and responsibility and (2) the 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. (PA 23-191, § 4, limits the scope of PURA's review for cable-TV companies and certified telecommunications providers, or their holding companies, to (1) the applicant's financial, technological, and managerial suitability and responsibility and (2) the 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.)

Violations

As under existing law, PURA may void any action that does not comply with application requirements. In response to violations of these provisions or PURA's orders related to them, the law allows PURA, companies, or holding companies to apply to the Superior Court to enforce compliance or enjoin any entity from taking actions that are violations. To enforce compliance, the court may reinstate control of the company to the entities that controlled the company before the violation took place.

Reporting Requirement

The law requires a holding company for PURA-regulated utilities to file with PURA either a (1) copy of its annual report to stockholders for the fiscal year or (2)

comprehensive audit and report of its accounts and operations prepared by a PURA-approved, independent public accounting firm. The act extends this reporting requirement to holding companies of cable-TV companies, certified telecommunications providers, and BIAS providers. As under existing law, the report is due within three months after the end of the company's fiscal year, and a holding company that is a person is exempt from this reporting requirement.

§§ 20-25 — BAZAARS AND RAFFLES

Beginning October 1, 2023, deems all municipalities to have adopted the Bazaar and Raffles Act but allows them to opt out of it; relaxes rules for conducting and promoting bazaars and raffles

Under prior law, any town in which a raffle was being conducted had to have adopted the Bazaar and Raffles Act. Beginning October 1, 2023, the act deems every town, city, and borough to have adopted the Act and instead provides an opt-out process. Existing law, unchanged by the act, allows the following to conduct, operate, or sponsor bazaars or raffles if the town where they are located has adopted the Bazaar and Raffles Act: veterans', religious, civic, fraternal, educational, and charitable organizations; volunteer fire companies; political parties and their town committees; and towns acting through a designated centennial, bicentennial, or other centennial celebration committee (CGS § 7-172).
EFFECTIVE DATE: July 1, 2023, except the repeal of the option to rescind adoption of the Bazaar and Raffles Act is effective October 1, 2023.

Opt-Out (§§ 21 & 25)

Under the act, any municipality can opt out of the Bazaar and Raffles Act by ordinance. The act also creates a petition process that is substantially the same as the process used under prior law to adopt, or rescind the adoption of, the Bazaar and Raffles Act. Under this process, if at least 5% of the municipality's electors petition for it, the chief executive authority must submit the question of opting out to a vote at a special meeting within 21 days after receiving the petition. Similar to prior law for opting in, the act provides the form of the question, which must be: "Shall the operation of bazaars and raffles be disallowed?" If the majority of voters vote in the affirmative, then the Bazaar and Raffles Act is no longer effective in that municipality. The act also makes a related conforming change (§ 25).

Helping With Bazaar and Raffle Activities (§§ 22 & 24)

By law, only the sponsoring organization's qualified members may promote, operate, conduct, or work at raffles (although centennial committees may use officially appointed volunteers). The act retains this provision but eliminates the requirement that bazaars and raffles be "exclusively" sponsored and conducted by an authorized organization.

Prior law also prohibited any type of payment, compensation, commission, reward, or salary to anyone holding, operating, or conducting raffles or otherwise helping with bazaar or raffle activities. In practice, this has been interpreted

narrowly to prohibit compensating people for selling raffle tickets. The act aligns the law with existing practice by narrowing the prohibition to apply only to the direct sale of raffle tickets.

Prizes (§ 23)

The act eliminates the prohibition against awarding prizes that are transferable (but retains existing law's requirement that the prizes not be refundable). It also specifies that bazaar and raffle prizes may include gift cards in addition to items already allowed by existing law (e.g., gift certificates).