



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB4060

Introduced 4/6/2021, by Rep. Angelica Guerrero-Cuellar

SYNOPSIS AS INTRODUCED:

815 ILCS 505/2WWW new

Amends the Consumer Fraud and Deceptive Business Practices Act. Makes unlawful, until January 1, 2022, an increase in the cost of any consumer food items or goods, goods or services used for emergency cleanup, emergency supplies, medical supplies, home heating oil, building materials, housing, transportation, freight, and storage services, or gasoline or other motor fuels of more than 10% during a state of emergency declared by the President, the Governor, or certain local officials. Defines terms. Effective immediately.

LRB102 12542 JLS 17880 b

1 AN ACT concerning business.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Consumer Fraud and Deceptive Business
5 Practices Act is amended by adding Section 2WWW as follows:

6 (815 ILCS 505/2WWW new)

7 Sec. 2WWW. Price gouging; state of emergency.

8 (a) The General Assembly finds that during a state of
9 emergency or local emergency, including, but not limited to,
10 an earthquake, flood, fire, riot, storm, drought, plant or
11 animal infestation or disease, pandemic or epidemic disease
12 outbreak, or other natural or manmade disaster, some merchants
13 have taken unfair advantage of consumers by greatly increasing
14 prices for essential consumer goods and services. While the
15 pricing of consumer goods and services is generally best left
16 to the marketplace under ordinary conditions, when a declared
17 state of emergency or local emergency results in abnormal
18 disruptions of the market, the public interest requires that
19 excessive and unjustified increases in the prices of essential
20 consumer goods and services be prohibited. It is the intent of
21 the General Assembly in enacting this amendatory Act of the
22 102nd General Assembly to protect citizens from excessive and
23 unjustified increases in the prices charged during or shortly

1 after a declared state of emergency or local emergency for
2 goods and services that are vital and necessary for the
3 health, safety, and welfare of consumers, whether those goods
4 and services are offered or sold in person, in stores, or
5 online. Further, it is the intent of the General Assembly that
6 this Section be liberally construed so that its beneficial
7 purposes may be served.

8 (b) In this Section:

9 "Building materials" means lumber, construction tools,
10 windows, and anything else used in the building or rebuilding
11 of property.

12 "Consumer food item" means any article that is used or
13 intended for use for food, drink, confection, or condiment by
14 a person or animal.

15 "Cost" as applied to production includes the cost of raw
16 materials, labor and all overhead expenses of the producer.

17 "Cost" as applied to distribution means the invoice or
18 replacement cost, whichever is lower, of the article or
19 product to the distributor and vendor, plus the cost of doing
20 business by the distributor and vendor and in the absence of
21 proof of cost of doing business a markup of 6% on such invoice
22 or replacement cost shall be prima facie proof of such cost of
23 doing business.

24 "Emergency supplies" includes, but is not limited to,
25 water, flashlights, radios, batteries, candles, blankets,
26 soaps, diapers, temporary shelters, tape, toiletries, plywood,

1 nails, and hammers.

2 "Gasoline" means any fuel used to power any motor vehicle
3 or power tool.

4 "Goods" means tangible chattels bought for use primarily
5 for personal, family, or household purposes, including
6 certificates or coupons exchangeable for these goods, and
7 including goods that, at the time of the sale or subsequently,
8 are to be so affixed to real property as to become a part of
9 the real property whether or not severable therefrom, but does
10 not include any vehicle required to be registered under the
11 Illinois Vehicle Code, nor any goods sold with the vehicle,
12 and does not include any mobile home, as defined in the Mobile
13 Home Park Act, nor any goods sold with the mobile home.

14 "Local emergency" means a natural or manmade emergency
15 resulting from an earthquake, flood, fire, riot, storm,
16 drought, plant or animal infestation or disease, pandemic or
17 epidemic disease outbreak, or other natural or manmade
18 disaster for which a local emergency has been declared by an
19 official, board, or other governing body vested with authority
20 to make that declaration in any county, municipality, or
21 municipality and county in this State.

22 "Medical supplies" includes, but is not limited to,
23 prescription and nonprescription medications, bandages, gauze,
24 isopropyl alcohol, and antibacterial products.

25 "Repair or reconstruction services" means services
26 performed by any person who is required to be licensed under

1 State law or a local ordinance, for repairs to residential or
2 commercial property of any type that is damaged as a result of
3 a disaster.

4 "Rental price" for housing means any of the following:

5 (1) For housing, including mobile homes, rented within
6 one year prior to the time of the proclamation or
7 declaration of emergency, the actual rental price paid by
8 the tenant. For housing not rented at the time of the
9 declaration or proclamation, but rented, or offered for
10 rent, within one year prior to the proclamation or
11 declaration of emergency, the most recent rental price
12 offered before the proclamation or declaration of
13 emergency. For housing rented at the time of the
14 proclamation or declaration of emergency but which becomes
15 vacant while the proclamation or declaration of emergency
16 remains in effect, the actual rental price paid by the
17 previous tenant or the amount specified in item (2),
18 whichever is greater. This amount may be increased by 5%
19 if the housing was previously rented or offered for rent
20 unfurnished, and it is now being offered for rent fully
21 furnished. This amount shall not be adjusted for any other
22 good or service, including, but not limited to, gardening
23 or utilities currently or formerly provided in connection
24 with the lease.

25 (2) For housing not rented and not offered for rent
26 within one year prior to the proclamation or declaration

1 of emergency, 160% of the fair market rent established by
2 the United States Department of Housing and Urban
3 Development. This amount may be increased by 5% if the
4 housing is offered for rent fully furnished. This amount
5 shall not be adjusted for any other good or service,
6 including, but not limited to, gardening or utilities
7 currently or formerly provided in connection with the
8 lease.

9 (3) Housing advertised, offered, or charged, at a
10 daily rate at the time of the declaration or proclamation
11 of emergency, shall be subject to the rental price
12 described in item (1), if the housing continues to be
13 advertised, offered, or charged, at a daily rate. Housing
14 advertised, offered, or charged, on a daily basis at the
15 time of the declaration or proclamation of emergency,
16 shall be subject to the rental price in item (2), if the
17 housing is advertised, offered, or charged, on a periodic
18 lease agreement after the declaration or proclamation of
19 emergency.

20 "State of emergency" means a natural or manmade emergency
21 resulting from an earthquake, flood, fire, riot, storm,
22 drought, plant or animal infestation or disease, pandemic or
23 epidemic disease outbreak, or other natural or manmade
24 disaster for which a state of emergency has been declared by
25 the President of the United States or the Governor.

26 "Transportation, freight, and storage services" means any

1 service that is performed by any company that contracts to
2 move, store, or transport personal or business property or
3 that rents equipment for those purposes, including towing
4 services.

5 (c) Upon the proclamation of a state of emergency declared
6 by the President of the United States or the Governor, or upon
7 the declaration of a local emergency by an official, board, or
8 other governing body vested with authority to make that
9 declaration in any county, municipality, or municipality and
10 county, and for a period of 30 days following that
11 proclamation or declaration, it is unlawful for a person,
12 contractor, business, or other entity to sell or offer to sell
13 any consumer food items or goods, goods or services used for
14 emergency cleanup, emergency supplies, medical supplies, home
15 heating oil, building materials, housing, transportation,
16 freight, and storage services, or gasoline or other motor
17 fuels for a price of more than 10% greater than the price
18 charged by that person for those goods or services immediately
19 prior to the proclamation or declaration of emergency, or
20 prior to a date set in the proclamation or declaration.
21 However, a greater price increase is not unlawful if that
22 person can prove that the increase in price was directly
23 attributable to additional costs imposed on it by the supplier
24 of the goods, or directly attributable to additional costs for
25 labor or materials used to provide the services, during the
26 state of emergency or local emergency, and the price is no more

1 than 10% greater than the total of the cost to the seller plus
2 the markup customarily applied by that seller for that good or
3 service in the usual course of business immediately prior to
4 the onset of the state of emergency or local emergency. If the
5 person, contractor, business, or other entity did not charge a
6 price for the goods or services immediately prior to the
7 proclamation or declaration of emergency, it may not charge a
8 price that is more than 50% greater than the cost thereof to
9 the vendor.

10 (d) Upon the proclamation of a state of emergency declared
11 by the President of the United States or the Governor, or upon
12 the declaration of a local emergency by an official, board, or
13 other governing body vested with authority to make that
14 declaration in any county, municipality, or municipality and
15 county, and for a period of 180 days following that
16 proclamation or declaration, it is unlawful for a contractor
17 to sell or offer to sell any repair or reconstruction services
18 or any services used in emergency cleanup for a price of more
19 than 10% above the price charged by that person for those
20 services immediately prior to the proclamation or declaration
21 of emergency. However, a greater price increase is not
22 unlawful if that person can prove that the increase in price
23 was directly attributable to additional costs imposed on it by
24 the supplier of the goods, or directly attributable to
25 additional costs for labor or materials used to provide the
26 services, during the state of emergency or local emergency,

1 and the price represents no more than 10% greater than the
2 total of the cost to the contractor plus the markup
3 customarily applied by the contractor for that good or service
4 in the usual course of business immediately prior to the onset
5 of the state of emergency or local emergency.

6 (e) Upon the proclamation of a state of emergency declared
7 by the President of the United States or the Governor, or upon
8 the declaration of a local emergency by an official, board, or
9 other governing body vested with authority to make that
10 declaration in any county, municipality, or municipality and
11 county, and for a period of 30 days following that
12 proclamation or declaration, it is unlawful for an owner or
13 operator of a hotel or motel to increase the hotel or motel's
14 regular rates, as advertised immediately prior to the
15 proclamation or declaration of emergency, by more than 10%.
16 However, a greater price increase is not unlawful if the owner
17 or operator can prove that the increase in price is directly
18 attributable to additional costs imposed on it for goods or
19 labor used in its business, to seasonal adjustments in rates
20 that are regularly scheduled, or to previously contracted
21 rates.

22 (f) Upon the proclamation of a state of emergency declared
23 by the President of the United States or the Governor, or upon
24 the declaration of a local emergency by an official, board, or
25 other governing body vested with authority to make that
26 declaration in any municipality, county, or municipality and

1 county, and for a period of 30 days following that
2 proclamation or declaration, or any period the proclamation or
3 declaration is extended by the applicable authority, it is
4 unlawful for any person, business, or other entity, to
5 increase the rental price advertised, offered, or charged for
6 housing, to an existing or prospective tenant, by more than
7 10%. However, a greater rental price increase is not unlawful
8 if that person can prove that the increase is directly
9 attributable to additional costs for repairs or additions
10 beyond normal maintenance that were amortized over the rental
11 term that caused the rent to be increased greater than 10% or
12 that an increase was contractually agreed to by the tenant
13 prior to the proclamation or declaration. It shall not be a
14 defense to a prosecution under this subsection that an
15 increase in rental price was based on the length of the rental
16 term, the inclusion of additional goods or services, except as
17 provided under subsection (b) with respect to furniture, or
18 that the rent was offered by, or paid by, an insurance company,
19 or other third party, on behalf of a tenant. This subsection
20 does not authorize a landlord to charge a price greater than
21 the amount authorized by a local rent control ordinance.

22 (g) The prohibitions of this Section may be extended for
23 additional periods, as needed, by a local legislative body,
24 local official, the Governor, or the General Assembly, if
25 deemed necessary to protect the lives, property, or welfare of
26 the citizens. Each extension by a local legislative body or

1 local official shall not exceed 30 days. An extension may also
2 authorize specified price increases that exceed the amount
3 that would be permissible under this Section during the
4 initial 30 or 180 days after a proclamation or declaration of
5 emergency.

6 (h) A violation of this Section constitutes an unlawful
7 practice within the meaning of this Act. The remedies provided
8 under this Section are cumulative to each other and the
9 remedies or penalties available under all other laws of this
10 State.

11 (i) A business offering an item for sale, or a service, at
12 a reduced price immediately prior to the proclamation or
13 declaration of the emergency may use the price it normally
14 charges for the item or service to calculate the price
15 pursuant to subsection (c) or (d).

16 (j) This Section is inoperative after December 31, 2021.

17 Section 99. Effective date. This Act takes effect upon
18 becoming law.