



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB4128

Introduced 9/3/2021, by Rep. Bob Morgan

SYNOPSIS AS INTRODUCED:

705 ILCS 205/7

from Ch. 13, par. 7

Amends the Attorney Act. Provides that if an attorney has received, in the course of collection or settlement of any claim left with him or her for collection or settlement, any money or other property belonging to any client, and, upon demand made, and a tender of his or her reasonable fees and expenses, refuses or neglects to pay over or deliver the same to the client, it shall be lawful for the client to, among other things: (1) request that the attorney provide an accounting of any and all money or other property belonging to the client in the possession of the attorney; and (2) request that the attorney deliver any and all money or other property belonging to the client in the possession of the attorney. Provides that an attorney who receives a request for an accounting shall provide the client with a full and accurate accounting of any and all money or property belonging to the client in the possession of the attorney within 30 days. Provides that an attorney who receives a request for delivery shall delivery any and all money or property belonging to the client in the possession of the attorney within 30 days. Provides that an attorney who knowingly violates a request for accounting or request for delivery for the express purpose of misappropriating money or property belonging to the client shall forfeit any and all rights and claims that the attorney may have otherwise held in such money or property or any portion thereof. Provides that the client may elect to enforce violations in the same court proceeding from which the money or property at issue was derived or through a separate action. Allows the court, upon a showing of cause for the issuance of injunctive relief, to issue such temporary restraining orders, preliminary injunctions, and permanent injunctions as may be appropriate. Allows the court to award reasonable attorney's fees, costs, and expenses to the prevailing party.

LRB102 17803 LNS 24143 b

1 AN ACT concerning courts.

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

4 Section 5. The Attorney Act is amended by changing Section
5 7 as follows:

6 (705 ILCS 205/7) (from Ch. 13, par. 7)

7 Sec. 7. Return of client property.

8 (a) In all cases when an attorney of any court in this
9 State ~~state~~, or solicitor in chancery, shall have received, or
10 may hereafter receive, in his or her said office of attorney or
11 solicitor, in the course of collection or settlement of any
12 claim left with him or her for collection or settlement, any
13 money or other property belonging to any client, and shall,
14 upon demand made, and a tender of his or her reasonable fees
15 and expenses, refuse or neglect to pay over or deliver the same
16 to the ~~said~~ client, or to any person duly authorized to receive
17 the same, it shall be lawful for the client to:

18 (1) request that the attorney provide an accounting of
19 any and all money or other property belonging to the
20 client in the possession of the attorney;

21 (2) request that the attorney deliver any and all
22 money or other property belonging to the client in the
23 possession of the attorney; and

1 ~~(3) any person interested, to~~ apply to the Supreme
2 Court ~~supreme court~~ of this State ~~state~~ for a rule upon the
3 ~~said~~ attorney or solicitor, to show cause, at a time to be
4 fixed by the ~~said~~ court, why the name of the ~~said~~ attorney
5 or solicitor should not be stricken from the roll, a copy
6 of which rule shall be duly served upon said attorney or
7 solicitor at least 2 ~~two~~ days previous to the day upon
8 which said rule shall be made returnable; and if, upon the
9 return of said rule, it shall be made to appear to the ~~said~~
10 court that such attorney or solicitor has improperly
11 refused or neglected to pay over or deliver said money or
12 property so demanded as aforesaid, it shall be the duty of
13 the ~~said~~ court to direct that the name of the ~~said~~ attorney
14 or solicitor be stricken from the roll of attorneys in
15 said court.

16 (b) An attorney who receives a request for an accounting
17 under paragraph (1) of subsection (a) shall provide the
18 client, within 30 days from receipt of the demand, a full and
19 accurate accounting of any and all money or property belonging
20 to the client in the possession of the attorney.

21 (c) Unless otherwise provided by law, an attorney who
22 receives a request for delivery under paragraph (2) of
23 subsection (a) shall deliver any and all money or property
24 belonging to the client in the possession of the attorney
25 within 30 days.

26 (d) An attorney who knowingly violates subsection (b) or

1 (c) for the express purpose of misappropriating money or
2 property belonging to the client shall forfeit any and all
3 rights and claims that the attorney may have otherwise held in
4 such money or property or any portion thereof.

5 (e) The client may elect to enforce violations of
6 subsection (b) or (c) from the same court proceeding in which
7 the money or property at issue was derived, if any, or through
8 a separate action. A client desiring to enforce subsection (b)
9 or (c) from the same court proceeding in which the money or
10 property at issue was derived shall petition the court to
11 retain jurisdiction for the purpose of enforcing the client's
12 rights under this Section. Notice of the petition shall be
13 served by certified or registered mail on the attorney accused
14 of violating subsection (b) or (c). The court shall conduct a
15 hearing on the petition no later than 15 days after notice is
16 served. If the court determines that the money or property at
17 issue was derived from the court proceeding, it shall grant
18 the petition and retain jurisdiction over the matter until
19 completed.

20 (f) Upon a showing of cause as required by Article XI of
21 the Code of Civil Procedure for the issuance of injunctive
22 relief, the court may issue such temporary restraining orders,
23 preliminary injunctions, and permanent injunctions as may be
24 appropriate.

25 (g) The court may award to the prevailing party reasonable
26 attorney's fees, costs, and expenses relating to an action

1 under this Section.

2 (h) The provisions of this Section are in addition to
3 other remedies permitted by law.

4 (Source: R.S. 1874, p. 169.)