



Sen. Michael W. Halpin

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10300HB3314sam001

LRB103 05921 LNS 61320 a

1 AMENDMENT TO HOUSE BILL 3314

2 AMENDMENT NO. _____. Amend House Bill 3314 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Consumer Contract Reciprocal Attorney's Fees Act.

6 Section 5. Definitions. As used in this Act:

7 "Consumer contract" means any contract in which the money,
8 property, or service that is the subject of the transaction is
9 primarily for personal, family, or household purposes.

10 "Commercial party" means the person from whom money,
11 property, or services are acquired under the consumer contract
12 that is a seller, lender, participating lender, lessor,
13 creditor, or assignee.

14 "Debt buyer" has the meaning given to that term in Section
15 2 of the Collection Agency Act.

1 Section 10. Attorney's fees. If a consumer contract allows
2 for the recovery of attorney's fees in an action brought by a
3 commercial party to enforce the consumer contract, the court
4 may award reasonable attorney's fees to the defendant if the
5 defendant prevails in the action. A defendant prevails in an
6 action if:

7 (1) judgment is entered by the court in favor of the
8 defendant;

9 (2) a motion to dismiss the case is filed by the
10 defendant under Section 2-619 of the Code of Civil
11 Procedure and is granted by the court; or

12 (3) the plaintiff voluntarily dismisses the pending
13 case under Section 2-1009 of the Code of Civil Procedure
14 after a trial date has been set and after the pending case
15 has been previously filed on the same consumer contract
16 and dismissed under Section 2-1009 of the Code of Civil
17 Procedure.

18 Section 15. Applicability.

19 (a) This Act applies to any action filed on or after the
20 effective date of this Act:

21 (1) with respect to any consumer contract entered into
22 on or after the effective date of this Act; if the
23 commercial party filing the action is a debt buyer, this
24 Act applies irrespective of when the consumer contract was
25 made or acquired by the debt buyer; and

1 (2) if the principal amount claimed does not exceed
2 the maximum amount of a judgment allowable for a small
3 claim under the Illinois Supreme Court Rules.

4 (b) Notwithstanding subsection (a), this Act does not
5 apply if:

6 (1) the commercial party does not request attorney's
7 fees in its complaint; or

8 (2) each party to the consumer contract was
9 represented by counsel in the negotiation of the consumer
10 contract.

11 Section 20. Right to attorney's fees not limited. Nothing
12 in this Act shall be construed to apply to or limit the rights
13 of any party to attorney's fees under any other contract or as
14 authorized in relation to consumer contracts under other
15 provisions of State law."