

1 AN ACT concerning antitrust.

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

4 Section 5. The Illinois Antitrust Act is amended by
5 changing Sections 7, 7.2, 7.5, 7.6, and 7.7 and by adding
6 Section 12 as follows:

7 (740 ILCS 10/7) (from Ch. 38, par. 60-7)

8 Sec. 7. The following civil actions and remedies are
9 authorized under this Act:

10 (1) The Attorney General, with such assistance as he may
11 from time to time require of the State's Attorneys in the
12 several counties, shall bring suit in the Circuit Court to
13 prevent and restrain violations of Section 3 of this Act. In
14 such a proceeding, the court shall determine whether a
15 violation has been committed, and shall enter such judgment
16 as it considers necessary to remove the effects of any
17 violation which it finds, and to prevent such violation from
18 continuing or from being renewed in the future. The court,
19 in its discretion, may exercise all powers necessary for this
20 purpose, including, but not limited to, injunction,
21 divestiture of property, divorcement of business units,
22 dissolution of domestic corporations or associations, and
23 suspension or termination of the right of foreign
24 corporations or associations to do business in the State of
25 Illinois.

26 (2) Any person who has been injured in his business or
27 property, or is threatened with such injury, by a violation
28 of Section 3 of this Act may maintain an action in the
29 Circuit Court for damages, or for an injunction, or both,
30 against any person who has committed such violation. If, in
31 an action for an injunction, the court issues an injunction,

1 the plaintiff shall be awarded costs and reasonable
2 attorney's fees. In an action for damages, if injury is
3 found to be due to a violation of subsections (1) or (4) of
4 Section 3 of this Act, the person injured shall be awarded 3
5 times the amount of actual damages resulting from that
6 violation, together with costs and reasonable attorney's
7 fees. If injury is found to be due to a violation of
8 subsections (2) or (3) of Section 3 of this Act, the person
9 injured shall recover the actual damages caused by the
10 violation, together with costs and reasonable attorney's
11 fees, and if it is shown that such violation was willful, the
12 court may, in its discretion, increase the amount recovered
13 as damages up to a total of 3 times the amount of actual
14 damages. This State, counties, municipalities, townships and
15 any political subdivision organized under the authority of
16 this State, and the United States, are considered a person
17 having standing to bring an action under this subsection.
18 The Attorney General may bring an action on behalf of this
19 State, counties, municipalities, townships and other
20 political subdivisions organized under the authority of this
21 State to recover the damages under this subsection or by any
22 comparable Federal law.

23 No provision of this Act shall deny any person who is an
24 indirect purchaser the right to sue for damages. Provided,
25 however, that in any case in which claims are asserted
26 against a defendant by both direct and indirect purchasers,
27 the court shall take all steps necessary to avoid duplicate
28 liability for the same injury including transfer and
29 consolidation of all actions. Provided further that no
30 person other than the Attorney General of this State shall be
31 authorized to maintain a class action in any court of this
32 State for indirect purchasers asserting claims under this
33 Act.

34 Beginning January 1, 1970, a file setting out the names

1 of all special assistant attorneys general retained to
2 prosecute antitrust matters and containing all terms and
3 conditions of any arrangement or agreement regarding fees or
4 compensation made between any such special assistant attorney
5 general and the office of the Attorney General shall be
6 maintained in the office of the Attorney General, open during
7 all business hours to public inspection.

8 Any action for damages under this subsection is forever
9 barred unless commenced within 4 years after the cause of
10 action accrued, except that, whenever any action is brought
11 by the Attorney General for a violation of this Act, the
12 running of the foregoing statute of limitations, with respect
13 to every private right of action for damages under the
14 subsection which is based in whole or in part on any matter
15 complained of in the action by the Attorney General, shall be
16 suspended during the pendency thereof, and for one year
17 thereafter. No cause of action barred under existing law on
18 July 21, 1965 shall be revived by this Act. In any action
19 for damages under this subsection the court may, in its
20 discretion, award reasonable fees to the prevailing defendant
21 upon a finding that the plaintiff acted in bad faith,
22 vexatiously, wantonly or for oppressive reasons.

23 (3) Upon a finding that any domestic or foreign
24 corporation organized or operating under the laws of this
25 State has been engaged in conduct prohibited by Section 3 of
26 this Act, or the terms of any injunction issued under this
27 Act, a circuit court may, upon petition of the Attorney
28 General, order the revocation, forfeiture or suspension of
29 the charter, franchise, certificate of authority or
30 privileges of any corporation operating under the laws of
31 this State, or the dissolution of any such corporation.

32 (4) In lieu of any criminal penalty otherwise prescribed
33 for a violation of this Act, and in addition to any action
34 under this Act or any Federal antitrust law, the Attorney

1 General may bring an action in the name and on behalf of the
2 people of the State against any person, trustee, director,
3 manager or other officer or agent of a corporation, or
4 against a corporation, domestic or foreign, to recover a
5 penalty not to exceed \$1,000,000 ~~\$100,000~~ from every
6 corporation or \$100,000 ~~\$50,000~~ from every other person for
7 any act herein declared illegal. The action must be brought
8 within 4 years after the commission of the act upon which it
9 is based. Nothing in this subsection shall impair the right
10 of any person to bring an action under subsection (2) of this
11 Section.

12 (Source: P.A. 83-1362.)

13 (740 ILCS 10/7.2) (from Ch. 38, par. 60-7.2)

14 Sec. 7.2. Whenever it appears to the Attorney General
15 that any person has engaged in, is engaging in, or is about
16 to engage in any act or practice prohibited by this Act, or
17 that any person has assisted or participated in any agreement
18 or combination of the nature described herein, he may, in his
19 discretion, conduct an investigation as he deems necessary in
20 connection with the matter and has the authority prior to the
21 commencement of any civil or criminal action as provided for
22 in the Act to subpoena witnesses, and pursuant to a subpoena
23 (i) compel their attendance for the purpose of examining,
24 examine them under oath, or (ii) require the production of
25 any books, documents, records, writings or tangible things
26 hereafter referred to as "documentary material" which the
27 Attorney General deems relevant or material to his
28 investigation, for inspection, reproducing or copying under
29 such terms and conditions as hereafter set forth, (iii)
30 require written answers under oath to written
31 interrogatories, or (iv) require compliance with a
32 combination of the foregoing. Any subpoena issued by the
33 Attorney General shall contain the following information:

1 (a) The statute and section thereof, the alleged
2 violation of which is under investigation and the general
3 subject matter of the investigation.

4 (b) The date and place at which time the person is
5 required to appear or produce documentary material in his
6 possession, custody or control or submit answers to
7 interrogatories in the office of the Attorney General located
8 in Springfield or Chicago. Said date shall not be less than
9 10 days from date of service of the subpoena.

10 (c) Where documentary material is required to be
11 produced, the same shall be described by class so as to
12 clearly indicate the material demanded.

13 The Attorney General is hereby authorized, and may so
14 elect, to require the production, pursuant to this section,
15 of documentary material or interrogatory answers prior to the
16 taking of any testimony of the person subpoenaed, ~~in which~~
17 ~~event,~~ Said documentary material shall be made available for
18 inspection and copying during normal business hours at the
19 principal place of business of the person served, or at such
20 other time and place, as may be agreed upon by the person
21 served and the Attorney General. When documentary material is
22 demanded by subpoena, said subpoena shall not:

23 (i) Contain any requirement which would be unreasonable
24 or improper if contained in a subpoena duces tecum issued by
25 a court of this State; or

26 (ii) Require the disclosure of any documentary material
27 which would be privileged, or which for any other reason
28 would not be required by a subpoena duces tecum issued by a
29 court of this State.

30 (d) The production of documentary material in response
31 to a subpoena served pursuant to this Section shall be made
32 under a sworn certificate, in such form as the subpoena
33 designates, by the person, if a natural person, to whom the
34 demand is directed or, if not a natural person, by a person

1 or persons having knowledge of the facts and circumstances
2 relating to such production, to the effect that all of the
3 documentary material required by the demand and in the
4 possession, custody, or control of the person to whom the
5 demand is directed has been produced and made available to
6 the custodian. Answers to interrogatories shall be
7 accompanied by a statement under oath attesting to the
8 accuracy of the answers.

9 While in the possession of the Attorney General and under
10 such reasonable terms and conditions as the Attorney General
11 shall prescribe: (A) documentary material shall be available
12 for examination by the person who produced such material or
13 by any duly authorized representative of such person, and (B)
14 transcript of oral testimony shall be available for
15 examination by the person who produced such testimony, or his
16 or her counsel and (C) answers to interrogatories shall be
17 available for examination by the person who swore to their
18 accuracy.

19 Except as otherwise provided in this Section, no
20 documentary material or transcripts of oral testimony, or
21 copies thereof, in the possession of the Attorney General
22 shall be available for examination by any individual other
23 than an authorized employee of the Attorney General or other
24 law enforcement officials, federal or local, without the
25 consent of the person who produced such material or
26 transcripts.

27 (e) No person shall, with intent to avoid, evade,
28 prevent, or obstruct compliance in whole or in part by any
29 person with any duly served subpoena of the Attorney General
30 under this Act, knowingly remove from any place, conceal,
31 withhold, destroy, mutilate, alter, or by any other means
32 falsify any documentary material that is the subject of such
33 subpoena. A violation of this subsection is a Class A
34 misdemeanor. The Attorney General, with such assistance as

1 he may from time to time require of the State's Attorneys in
2 the several counties, shall investigate suspected violations
3 of this subsection and shall commence and try all
4 prosecutions under this subsection.

5 (Source: P.A. 81-1051.)

6 (740 ILCS 10/7.5) (from Ch. 38, par. 60-7.5)

7 Sec. 7.5. Fees for witnesses; document production.

8 (1) All persons served with a subpoena by the Attorney
9 General under this Act shall be paid the same fees and
10 mileage as paid witnesses in the courts of this State.

11 (2) Where a subpoena requires the production of
12 documentary material, the respondent shall produce the
13 original of such documentary material, provided, however,
14 that the Attorney General may agree that copies may be
15 substituted, in which case the respondent shall have copies
16 made and produced at the respondent's expense.

17 (Source: P.A. 76-208.)

18 (740 ILCS 10/7.6) (from Ch. 38, par. 60-7.6)

19 Sec. 7.6. In the event a witness served with a subpoena
20 by the Attorney General under this Act fails or refuses to
21 obey same or produce documentary material or interrogatory
22 answers as provided herein, or to give testimony, relevant or
23 material, to the investigation being conducted, the Attorney
24 General may petition the Circuit Court of Sangamon or Cook
25 County, or the county wherein the witness resides for an
26 order requiring said witness to attend and testify or produce
27 the documentary material or interrogatory answers demanded;
28 ~~thereafter, any failure or refusal on the part of the witness~~
29 ~~to obey such order of court may be punishable by the court as~~
30 ~~a contempt thereof.~~ The court's order shall require the
31 witness to attend and testify or produce the documentary
32 material or interrogatory answers, or a combination thereof,

1 by a specified date, and shall further provide a date
2 thereafter on which the witness shall show cause in court why
3 he or she should not be held in contempt of court if he or
4 she fails to comply. The Attorney General shall cause the
5 order to be served upon the witness in the manner provided
6 for service of subpoenas in Section 7.3 of this Act. Service
7 of the order shall constitute service of process, and no
8 other form of process is necessary to submit the witness to
9 the jurisdiction of the court and to require compliance with
10 the court order.

11 (Source: P.A. 76-208.)

12 (740 ILCS 10/7.7) (from Ch. 38, par. 60-7.7)

13 Sec. 7.7. In any investigation brought by the Attorney
14 General pursuant to this Act, no individual shall be excused
15 from attending, testifying or producing documentary material,
16 objects or tangible things in obedience to a subpoena or
17 under order of the court on the ground that the testimony or
18 evidence required of him or her may tend to incriminate him
19 or subject him to any penalty. No individual shall be
20 criminally prosecuted or subjected to any criminal penalty
21 for or on account of (a) any testimony or interrogatory
22 answers given by him or her, or (b) any documentary material
23 produced by him or her, as to which he or she would otherwise
24 have a right not to give or produce by virtue of his or her
25 right against self-incrimination, in any investigation
26 brought by the Attorney General pursuant to this Act;
27 provided no individual so giving testimony or answers or so
28 producing documentary material testifying shall be exempt
29 from prosecution or punishment for perjury committed in so
30 testifying, answering, or producing.

31 (Source: P.A. 81-1051.)

32 (740 ILCS 10/12 new)

1 Sec. 12. Jury Trial. In the trial of all actions
2 brought under this Act for the imposition of criminal
3 sanctions or the recovery of civil penalties or damages, any
4 party, upon timely demand, shall be entitled to a trial by
5 jury.