

1 AMENDMENT TO SENATE BILL 114

2 AMENDMENT NO. _____. Amend Senate Bill 114 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Code of Civil Procedure is amended by
5 changing Sections 2-801, 2-802, and 2-803 and adding Sections
6 2-807, 2-808, and 2-809 as follows:

7 (735 ILCS 5/2-801) (from Ch. 110, par. 2-801)
8 Sec. 2-801. Prerequisites for the maintenance of a class
9 action.

10 (a) An action may be maintained as a class action only
11 in the any court sitting in the county of this State in which
12 (i) the defendant's principal office is located, (ii) the
13 plurality of class members who are Illinois residents reside,
14 or (iii) the cause of action arose for the plurality of class
15 members. and A party may sue or be sued as a representative
16 party of the class only if the court finds:

17 (1) The class is so numerous that joinder of all
18 members is impracticable.

19 (2) There are questions of fact or law common to
20 the class, which common questions predominate over any
21 questions affecting only individual members and a class
22 action is superior to other available methods for the

1 fair and efficient adjudication of the controversy. The
2 matters pertinent to the findings include: (A) the
3 interest of members of the class in individually
4 controlling the prosecution or defense of separate
5 actions; (B) the extent and nature of any litigation
6 concerning the controversy already commenced by or
7 against members of the class; (C) the desirability or
8 undesirability of concentrating the litigation of the
9 claims in the particular forum; (D) the difficulties
10 likely to be encountered in the management of a class
11 action.

12 (3) The representative parties will fairly and
13 adequately protect the interest of the class.

14 (4) The class action is an appropriate method for
15 the fair and efficient adjudication of the controversy.

16 (b) Notwithstanding the provisions of subsection (a), a
17 class action may be certified only if the plurality of the
18 class members are residents of Illinois or if the plurality
19 of the class members were physically in Illinois when the
20 cause of action arose.

21 (Source: P.A. 82-280.)

22 (735 ILCS 5/2-802) (from Ch. 110, par. 2-802)

23 Sec. 2-802. Order and findings relative to the class.

24 (a) Preliminary determinations. Before making any of the
25 determinations set forth in subsections (b) and (c), the
26 court shall determine whether the action which has been
27 brought as a class action has been commenced in the court
28 sitting in the County of this State in which (i) the
29 defendant's principal office is located, (ii) the plurality
30 of class members who are Illinois residents reside, or (iii)
31 the cause of action arose for the plurality of class members,
32 and, if the court determines that it has not been commenced
33 in such county, the court may not permit the action to be

1 maintained as a class action pursuant to subsections (b) and
2 (c).

3 (b) Determination of Class. As soon as practicable
4 after the commencement of an action brought as a class
5 action, the court shall determine by order whether it may be
6 so maintained and describe those whom the court finds to be
7 members of the class. This order may be conditional and may
8 be amended before a decision on the merits.

9 (c) ~~(b)~~ Class Action on Limited Issues and Sub-classes.
10 When appropriate, an action may be brought or maintained as a
11 class action with respect to particular issues, or divided
12 into sub-classes and each sub-class treated as a class. The
13 provisions of this rule shall then be construed and applied
14 accordingly.

15 (Source: P.A. 82-280.)

16 (735 ILCS 5/2-803) (from Ch. 110, par. 2-803)

17 Sec. 2-803. Notice to Class Members.

18 (a) For any class certified under this Part 8, the court
19 may direct appropriate notice to the class.

20 (b) For any class certified under this Part 8, the court
21 must direct to class members the best notice practicable
22 under the circumstances, including individual notice to all
23 members who can be identified through reasonable effort. The
24 notice must concisely and clearly state in plain, easily
25 understood language:

- 26 (1) the nature of the action;
- 27 (2) the definition of the class certified;
- 28 (3) the class claims, issues, or defenses;
- 29 (4) that a class member may enter an appearance
30 through counsel if the member so desires;
- 31 (5) that the court will exclude from the class any
32 member who requests exclusion, stating when and how
33 members may elect to be excluded; and

1 (6) the binding effect of a class judgment on class
 2 members under this Part 8. in--class--cases.--Upon a
 3 determination that an action may be maintained as a class
 4 action, or at any time during the conduct of the--action,
 5 the court in its discretion may order such notice that it
 6 deems necessary to protect the interests of the class and
 7 the parties.

8 An order entered under subsection (a) of Section 2-802 of
 9 this--Act,--determining that an action may be maintained as a
 10 class action, may be conditioned--upon--the--giving--of--such
 11 notice as the court deems appropriate.

12 (Source: P.A. 83-707.)

13 (735 ILCS 5/2-807 new)

14 Sec. 2-807. Judicial scrutiny of coupon and other
 15 noncash settlements. The court may approve a proposed
 16 settlement under which the class members would receive
 17 coupons or other similar noncash benefits or would otherwise
 18 be required to expend funds to obtain part or all of the
 19 proposed benefits only after a hearing to determine whether,
 20 and making a written finding that, the settlement is fair,
 21 reasonable, and adequate for class members.

22 (735 ILCS 5/2-808 new)

23 Sec. 2-808. Protection against loss by class members.
 24 The court may approve a proposed settlement under which any
 25 class member is obligated to pay sums to class counsel that
 26 would result in a net loss to the class member only if the
 27 court makes a written finding that nonmonetary benefits to
 28 the class member outweigh the monetary loss.

29 (735 ILCS 5/2-809 new)

30 Sec. 2-809. Attorney's fees. Any attorney representing
 31 any member or members of the plaintiff class in a class

1 action may seek payment of attorney's fees and costs pursuant
2 to a petition filed with the court of jurisdiction. The court
3 shall make a determination based on findings of fact that the
4 amount awarded for attorney's fees and costs is reasonable
5 and commensurate with the benefits conferred upon the members
6 of the class represented by the attorney or attorneys who are
7 the petitioners for fees and costs."