



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB4931

Introduced 1/15/2010, by Rep. Michael J. Zalewski

SYNOPSIS AS INTRODUCED:

735 ILCS 5/2-201.1 new

735 ILCS 5/2-403

735 ILCS 5/2-606

from Ch. 110, par. 2-403

from Ch. 110, par. 2-606

Amends the Code of Civil Procedure. Provides that a person who commences more than 10 civil actions in a calendar year seeking money damages against natural persons shall attach to the summons a specified notice that includes advising the defendant to get legal advice and, if the defendant does not have an attorney, information about lawyer referral services or legal aid organizations. Provides that if an action is based on an assigned claim, the notice shall include a statement that the assignee of a debt suing to collect the debt is required to state how and when the assignee and any prior assignee acquired the debt and quote from or include a copy of the assignment. Provides that in all actions, including small claims, the pleading of an assignee and owner of a non-negotiable chose in action shall state how and when any prior assignee acquired title to the chose in action. Provides that a judgment on an assigned claim shall include a finding that the assignee has complied with these provisions. Provides that a written assignment that is necessary to entitle the pleader to assert a claim is a document on which the claim is founded. Provides that if a written assignment is recited in the complaint, a copy must be provided to the defendant upon request and that this provision applies to all cases, including small claims.

LRB096 16786 AJO 32087 b

1 AN ACT concerning civil law.

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

4 Section 5. The Code of Civil Procedure is amended by
5 changing Sections 2-403 and 2-606 and by adding Section 2-201.1
6 as follows:

7 (735 ILCS 5/2-201.1 new)

8 Sec. 2-201.1. Multiple actions for damages.

9 (a) Any person who files more than 10 civil actions in a
10 calendar year seeking money damages against natural persons
11 shall attach the following notice to the summons:

12 NOTICE REQUIRED BY ILLINOIS LAW

13 1. GET ADVICE: Get professional advice from a lawyer
14 about your rights and options.

15 2. LAWYER: If you do not have a lawyer, you may be able
16 to find assistance by contacting the Illinois State Bar
17 Association or a legal aid organization that provides free
18 legal assistance. Legal aid organizations in your
19 jurisdiction include:

1 (A) In Cook County:

2 Legal Assistance Foundation of Metropolitan
3 Chicago

4 111 W. Jackson Boulevard

5 Chicago, IL 60604

6 1-312-341-1070

7 Coordinated Advice and Referral Program for
8 Legal Services

9 1-312-738-9200

10 (B) Northern Illinois other than Cook County

11 Prairie State Legal Services

12 1-800-531-7057

13 (C) Central and Southern Illinois

14 1-618-394-7300, 1-877-342-7891

15 (b) If the action is based on an assigned claim, the notice
16 shall also state:

17 3. ASSIGNED CLAIMS: The law allows the assignee of a
18 debt to sue to collect it. The assignee is required to
19 state how and when the plaintiff and any prior assignee
20 acquired the debt. A written assignment must be attached to

1 the complaint as an exhibit or recited therein. You have
2 the right to a copy of all assignments of the debt for
3 which you are sued.

4 (735 ILCS 5/2-403) (from Ch. 110, par. 2-403)

5 Sec. 2-403. Who may be plaintiff - Assignments -
6 Subrogation. (a) The assignee and owner of a non-negotiable
7 chose in action may sue thereon in his or her own name. Such
8 person shall in his or her pleading on oath allege that he or
9 she is the actual bona fide owner thereof. An assignee shall,
10 ~~and~~ set forth how and when he or she and any prior assignee
11 acquired title to the chose in action. The action is subject to
12 any defense or set-off existing before notice of the
13 assignment. A court shall not enter a judgment on an assigned
14 claim without finding that this Section has been complied with.
15 This Section applies to all cases including small claims.

16 (b) In all cases in which the chose in action consists of
17 wages due or to become due to the assignor thereof from the
18 defendant in the action, at least 5 days' written notice of the
19 pendency of the action shall be served upon the assignor,
20 before the trial of the same. Upon application of the assignor
21 of the chose in action the court shall allow him or her to
22 intervene and be made a party to the action. The assignor, or
23 the defendant to the action on behalf of the assignor, shall be
24 allowed to set up or affirmatively maintain any just setoff,
25 discount or defense which the assignor may have to the

1 assignment of the chose in action, or to the indebtedness, the
2 payment of which is secured by the assignment of the chose in
3 action. The court, by jury or otherwise, shall ascertain the
4 amount of the indebtedness remaining due and unpaid from the
5 assignor to the assignee of the chose in action. The judgment,
6 if any, against the defendant shall not exceed the amount so
7 found to be due and unpaid from the assignor to the assignee of
8 the chose in action. Judgment for the balance, if any,
9 remaining due from the defendant, upon the assigned chose in
10 action, shall be rendered in favor of the assignor and against
11 the defendant in the action or proceeding. The court may enter
12 any order as to costs in the proceeding that may be equitable.

13 (c) Any action hereafter brought by virtue of the
14 subrogation provision of any contract or by virtue of
15 subrogation by operation of law shall be brought either in the
16 name or for the use of the subrogee; and the subrogee shall in
17 his or her pleading on oath, or by his or her affidavit if
18 pleading is not required, allege that he or she is the actual
19 bona fide subrogee and set forth how and when he or she became
20 subrogee.

21 (d) A judgment in an action brought and conducted by a
22 subrogee by virtue of the subrogation provision of any contract
23 or by virtue of any subrogation by operation of law, whether in
24 the name of the subrogor or otherwise, is not a bar or a
25 determination on the merits of the case or any aspect thereof
26 in an action by the subrogor to recover upon any other cause of

1 action arising out of the same transaction or series of
2 transactions.

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

4 (735 ILCS 5/2-606) (from Ch. 110, par. 2-606)

5 Sec. 2-606. Exhibits. If a claim or defense is founded upon
6 a written instrument, a copy thereof, or of so much of the same
7 as is relevant, must be attached to the pleading as an exhibit
8 or recited therein, unless the pleader attaches to his or her
9 pleading an affidavit stating facts showing that the instrument
10 is not accessible to him or her. In pleading any written
11 instrument a copy thereof may be attached to the pleading as an
12 exhibit. In either case the exhibit constitutes a part of the
13 pleading for all purposes. A written assignment that is
14 necessary to entitle the pleader to assert a claim is a
15 document on which the claim is founded. If recited in the
16 complaint a copy must be provided to the defendant upon
17 request. This Section applies to all cases, including small
18 claims.

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