



Rep. Daniel Biss

Filed: 3/20/2012

09700HB5198ham001

LRB097 18569 AJ0 67586 a

1 AMENDMENT TO HOUSE BILL 5198

2 AMENDMENT NO. _____. Amend House Bill 5198 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Code of Civil Procedure is amended by
5 adding Section 5-126.3 as follows:

6 (735 ILCS 5/5-126.3 new)

7 Sec. 5-126.3. Defendant's attorney's fees in an action on a
8 contract.

9 (a) If a contract allows for the recovery of attorney's
10 fees in an action brought to enforce a contract, the court may
11 also allow reasonable attorney's fees and costs to the
12 defendant under this Section, if the defendant requests
13 attorney's fees and costs in the defendant's initial responsive
14 pleading and (i) the court finds in the defendant's favor on a
15 motion, an affirmative defense or counterclaim, or in the
16 underlying action, or (ii) if the plaintiff dismisses the

1 action within 72 hours before trial.

2 (b) This Section shall not apply if the plaintiff does not
3 request attorney's fees in the complaint or if each party to
4 the contract was represented by counsel in the negotiation and
5 execution of the contract.

6 (c) For the purposes of this Section, attorney's fees for
7 any party shall be limited to the greater of \$1,250 or 25% of
8 the amount in controversy, but in no event shall the attorney's
9 fees exceed 25% of the maximum amount of a judgment allowable
10 for a small claim under the Illinois Supreme Court Rules.

11 (d) This Section applies only to actions filed on or after
12 January 1, 2013."