

SB3203



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB3203

Introduced 2/1/2012, by Sen. Ira I. Silverstein

SYNOPSIS AS INTRODUCED:

New Act

Creates the Consumer Contract Right to Know Act. Requires certain disclosures to be made by a person who utilizes standard form consumer contracts in the usual course of business. Provides that consumers must be given access to standard form consumer contracts before a sale to enable the consumer to comparison shop. Authorizes the Attorney General to enforce the Act. Provides remedies, including statutory damages. Applies to contracts initiated on or after the effective date of this Act. Effective immediately.

LRB097 19255 JLS 64499 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning standard form consumer contract
2 disclosure in Illinois.

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

5 Section 1. Short title. This Act may be cited as the
6 Consumer Contract Right to Know Act.

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

8 "Consumer" means an individual who borrows, buys, or leases
9 services or products under a consumer contract.

10 "Consumer contract" or "contract" means a written
11 agreement between a consumer and a party, acting in the usual
12 course of business, for products or services made or performed
13 for primarily personal, family, or household purposes. A
14 "consumer contract" includes, but is not limited to, standard
15 form contracts, consumer agreements, forms, or terms.

16 "Covered entity" means a person who utilizes standard form
17 consumer contracts in the usual course of business.

18 "Reasonable access" includes:

19 (1) posting of contracts on the company website in a
20 location that is clear and accessible to consumers;

21 (2) making contracts available from the company at its
22 usual places of business; and

23 (3) providing written copies of contracts upon request

1 by telephone, fax, e-mail, letter, or other standard means
2 of communication.

3 "Reasonable access" does not include oral conveyance of
4 contract terms.

5 "Transaction" means a business transaction that occurs
6 between a consumer and a covered entity for the exchange of
7 products or services through the use of a consumer contract.

8 Section 10. Scope and applicability. Unless disclosure is
9 prohibited under federal or state statute, this Act applies to
10 all standard form consumer contracts.

11 Section 15. Mandatory disclosure.

12 (a) A covered entity must:

13 (1) provide access to any standard form contract
14 utilized by the covered entity before the point-of-sale to
15 enable the consumer to read and comparison shop the actual
16 terms of the contract; and

17 (2) make available to consumers these same contracts in
18 a manner that is reasonably accessible.

19 (b) A covered entity may not:

20 (1) condition consumer access to contracts with a
21 requirement of sale or application or otherwise require
22 consent to the contract.

23 (2) enter into a contract with a consumer pursuant to
24 which the consumer seeks or purports to waive his or her

1 rights under this Act.

2 Section 20. Enforcement. The Illinois Attorney General may
3 bring an action to enforce this Act and to obtain injunctive
4 relief in any court of competent jurisdiction not later than 5
5 years after the date of the violation.

6 Section 25. Safe harbor. There shall be no liability under
7 this Act if any of the following occurs:

8 (1) the consumer wrote the contract; or

9 (2) the creditor, seller or lessor made a good faith
10 and reasonable effort to comply with this Act.

11 Section 30. Penalties. A person who knowingly violates the
12 requirements of Section 15 shall be liable to the consumer for
13 the following:

14 (1) compensation in an amount equal to the value of any
15 actual loss caused by the violation of this Act;

16 (2) statutory damages of the lesser of \$1000 or the
17 total amount of the contract;

18 (3) court costs;

19 (4) reasonable attorney's fees; and

20 (5) any equitable and other relief ordered by the
21 court.

22 Section 99. Effective date. This Act takes effect upon
23 becoming law.