



Sen. William R. Haine

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09700SB3234sam001

LRB097 18787 JLS 67262 a

1 AMENDMENT TO SENATE BILL 3234

2 AMENDMENT NO. _____. Amend Senate Bill 3234 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Consumer Installment Loan Act is amended by
5 adding Section 19.3 as follows:

6 (205 ILCS 670/19.3 new)

7 Sec. 19.3. Debtor incarceration prevention.

8 (a) A licensee shall develop and maintain in each place of
9 business and in each headquarters a written policy regarding
10 the filing and handling of collection actions against
11 consumers. The policy shall include a provision regarding
12 consumers who fail to appear at a court-ordered hearing. The
13 written policy shall provide that the licensee shall instruct
14 all counsel representing the licensee not to request or
15 otherwise seek writs of body attachment or other orders causing
16 the arrest of a consumer except under extraordinary

1 circumstances. Extraordinary circumstances shall exist when
2 the consumer (1) has repeatedly failed to appear without
3 notifying the court or the licensee's counsel and despite
4 having received actual notice of the duty to appear or (2) is
5 alleged to have engaged in fraud or the willful concealment of
6 assets.

7 (b) A licensee shall abide by the policy developed pursuant
8 to subsection (a). Failure to develop, maintain, or abide by
9 the policy shall constitute a violation of this Act.

10 (c) A licensee shall maintain records on all cases in which
11 the licensee is the plaintiff and the court orders a writ of
12 body attachment. These records shall include the complaint
13 filed in court by the plaintiff or its agent, the amount of the
14 debt, whether the attachment was delivered to the sheriff for
15 service, whether the attachment was served, the date on which
16 the consumer was taken into custody, the date on which the
17 consumer was released from custody, the amount of the bond
18 required by the court, and the amount of the bond, if any,
19 tendered to the licensee. A licensee shall provide an annual
20 report to the Department containing the information required by
21 this subsection. If the licensee or its agent has filed no
22 cases in which body attachments were ordered, no report shall
23 be submitted to the Department.

24 Section 10. The Collection Agency Act is amended by adding
25 Section 8d as follows:

1 (225 ILCS 425/8d new)

2 Sec. 8d. Debtor incarceration prevention.

3 (a) A licensee shall develop and maintain in each place of
4 business and in each headquarters a written policy regarding
5 the filing and handling of collection actions against debtors.
6 The policy shall include a provision regarding debtors who fail
7 to appear at a court-ordered hearing. The written policy shall
8 provide that the licensee shall instruct all counsel
9 representing the licensee not to request or otherwise seek
10 writs of body attachment or other orders causing the arrest of
11 a debtor except under extraordinary circumstances.
12 Extraordinary circumstances shall exist when the debtor (1) has
13 repeatedly failed to appear without notifying the court or the
14 licensee's counsel and despite having received actual notice of
15 the duty to appear or (2) is alleged to have engaged in fraud
16 or the willful concealment of assets.

17 (b) A licensee shall abide by the policy developed pursuant
18 to subsection (a). Failure to develop, maintain, or abide by
19 the policy shall constitute a violation of this Act.

20 (c) A licensee shall maintain records on all cases in which
21 the licensee is the plaintiff and the court orders a writ of
22 body attachment. These records shall include the complaint
23 filed in court by the plaintiff or its agent, the amount of the
24 debt, whether the attachment was delivered to the sheriff for
25 service, whether the attachment was served, the date on which

1 the debtor was taken into custody, the date on which the debtor
2 was released from custody, the amount of the bond required by
3 the court, and the amount of the bond, if any, tendered to the
4 licensee. A licensee shall provide an annual report to the
5 Department containing the information required by this
6 subsection. If the licensee or its agent has filed no cases in
7 which body attachments were ordered, no report shall be
8 submitted to the Department.

9 Section 15. The Payday Loan Reform Act is amended by adding
10 Section 2-21 as follows:

11 (815 ILCS 122/2-21 new)

12 Sec. 2-21. Debtor incarceration prevention.

13 (a) A licensee shall develop and maintain in each place of
14 business and in each headquarters a written policy regarding
15 the filing and handling of collection actions against
16 consumers. The policy shall include a provision regarding
17 consumers who fail to appear at a court-ordered hearing. The
18 written policy shall provide that the licensee shall instruct
19 all counsel representing the licensee not to request or
20 otherwise seek writs of body attachment or other orders causing
21 the arrest of a consumer except under extraordinary
22 circumstances. Extraordinary circumstances shall exist when
23 the consumer (1) has repeatedly failed to appear without
24 notifying the court or the licensee's counsel and despite

1 having received actual notice of the duty to appear or (2) is
2 alleged to have engaged in fraud or the willful concealment of
3 assets.

4 (b) A licensee shall abide by the policy developed pursuant
5 to subsection (a). Failure to develop, maintain, or abide by
6 the policy shall constitute a violation of this Act.

7 (c) A licensee shall maintain records on all cases in which
8 the licensee is the plaintiff and the court orders a writ of
9 body attachment. These records shall include the complaint
10 filed in court by the plaintiff or its agent, the amount of the
11 debt, whether the attachment was delivered to the sheriff for
12 service, whether the attachment was served, the date on which
13 the consumer was taken into custody, the date on which the
14 consumer was released from custody, the amount of the bond
15 required by the court, and the amount of the bond, if any,
16 tendered to the licensee. A licensee shall provide an annual
17 report to the Department containing the information required by
18 this subsection. If the licensee or its agent has filed no
19 cases in which body attachments were ordered, no report shall
20 be submitted to the Department.

21 Section 99. Effective date. This Act takes effect January
22 1, 2013."