



Sen. Michael Noland

Filed: 5/8/2012

09700SB1135sam002

LRB097 04857 JLS 69130 a

1 AMENDMENT TO SENATE BILL 1135

2 AMENDMENT NO. _____. Amend Senate Bill 1135 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Consumer Contract Plain Language Act.

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

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

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

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

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

4 Section 10. Scope and construction.

5 (a) This Act applies to all consumer contracts, except that
6 this Act does not apply to format or language required by State
7 or federal law or regulation.

8 (b) This Act is to be liberally construed to further its
9 purposes, which are to ensure that consumer contracts are
10 written in a simple format and plain language and to protect
11 consumers against unfair or deceptive form contracts.

12 Section 15. Plain language. A contract entered into on or
13 after the effective date of this Act shall be written in a
14 simple, clear, understandable, and easily readable manner. In
15 determining whether a contract as a whole has been written in a
16 simple, clear, understandable, and easily readable manner, a
17 court, the Attorney General, or proper regulatory agency, shall
18 apply the provisions of Section 20.

19 Section 20. Requirements for contracts.

20 (a) For a contract to be simple, clear, understandable, and
21 easily readable, it must be written in plain language. A
22 contract is written in plain language if:

23 (1) it is written in a clear and coherent manner using

1 words with common and everyday meanings; use of technical
2 terms or words of art is not, however, in and of itself a
3 violation of this Act;

4 (2) it is appropriately divided and captioned by its
5 various sections;

6 (3) it uses type of readable size and no less than
7 10-point font;

8 (4) it uses layout and spacing that separate the lines,
9 paragraphs, and sections of the contract from each other
10 and from the borders of the paper or medium upon which it
11 is displayed;

12 (5) it uses simple and active verb forms;

13 (6) it uses ink that contrasts with the paper or medium
14 upon which it is displayed;

15 (7) it does not contain a provision that permits the
16 unilateral modification of the contract by the covered
17 entity to the disadvantage of the consumer without explicit
18 consumer consent after the execution of the contract;

19 (8) it uses a table of contents or alphabetical index
20 and definitional glossary for all contracts with more than
21 2,000 words; and

22 (9) conditions and exceptions to the main promise of
23 the contract are given prominence equal to that given to
24 the main promise and are in at least 10-point bold type.

25 (b) A contract may not be simple, clear, understandable, or
26 easily readable if it contains one or more the following:

- 1 (1) cross references that are confusing;
- 2 (2) references to terms not included in the consumer
3 contract that are necessary to understand its material
4 provisions;
- 5 (3) sentences that are of greater length than
6 necessary;
- 7 (4) sentences that contain double negatives and
8 exceptions to exceptions;
- 9 (5) sentences and sections that are in a confusing or
10 illogical order;
- 11 (6) the use of words with obsolete meanings or words
12 that differ in their legal meaning from their common,
13 ordinary meaning; and
- 14 (7) frequent use of Old English and Middle English
15 words and Latin and French phrases.

16 Section 25. Content of contracts. A covered entity shall
17 include a clear and conspicuous description of the terms of the
18 contract, including the total cost of all fees and other
19 charges or waiver of rights in connection with the transaction,
20 in English and in the language in which the transaction was
21 conducted. No consumer contract may contain a waiver of any
22 rights granted under this Act.

23 Section 30. Enforcement. The Illinois Attorney General may
24 bring an action to enforce this Act and to obtain injunctive

1 relief in any court of competent jurisdiction not later than 5
2 years after the date of the violation. Any person or
3 organization, whether or not a party to a covered contract, and
4 any law enforcement official may bring an action to enjoin the
5 use of a contract that violates this Act.

6 Section 35. Safe harbor. There shall be no liability under
7 Section 40 if any of the following occurs:

8 (1) the consumer wrote the contract or the part of it
9 that violates this Act; or

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

12 Section 40. Penalties. A person who knowingly violates the
13 requirements of Section 20 shall be liable to the consumer for
14 the following:

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

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

19 (3) court costs;

20 (4) reasonable attorney's fees; and

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

23 Section 97. Severability. The provisions of this Act are

1 severable under Section 1.31 of the Statute on Statutes.

2 Section 99. Effective date. This Act takes effect upon
3 becoming law.".