



Sen. Dan Kotowski

Filed: 5/13/2015

09900SB0142sam001

LRB099 03413 JLS 35430 a

1 AMENDMENT TO SENATE BILL 142

2 AMENDMENT NO. _____. Amend Senate Bill 142 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Consumer Fraud and Deceptive Business
5 Practices Act is amended by changing Section 2B as follows:

6 (815 ILCS 505/2B) (from Ch. 121 1/2, par. 262B)

7 Sec. 2B. Where a sale of merchandise involving \$25 or more
8 is made or contracted to be made whether under a single
9 contract or under multiple contracts, to a consumer by a seller
10 who is physically present at the consumer's residence, that
11 consumer may avoid the contract or transaction by notifying the
12 seller within 3 full business days (or 15 full business days if
13 the consumer is age 65 or older) following that day on which
14 the contract was signed or the sale was made and by returning
15 to the person, in its original condition, any merchandise
16 delivered to the consumer under the contract or sale. At the

1 time the transaction is made or the contract signed, the person
 2 shall furnish the consumer with a fully completed receipt or
 3 contract pertaining to the transaction, in substantially the
 4 same language as that principally used in the oral presentation
 5 to the consumer, containing a "Notice of Cancellation"
 6 informing the consumer that he may cancel the transaction at
 7 any time within 3 days (or 15 days if the consumer is age 65 or
 8 older) and showing the date of the transaction with the name
 9 and address of the person, and in immediate proximity to the
 10 space reserved in the contract for the consumer's signature or
 11 on the front page of the receipt if a contract is not used, a
 12 statement which shall be in bold face type, in at least
 13 10-point type and in substantially the following form:

14 "YOU, THE CONSUMER, MAY CANCEL THIS TRANSACTION AT ANY TIME
 15 PRIOR TO MIDNIGHT OF THE THIRD BUSINESS DAY (OR FIFTEENTH
 16 BUSINESS DAY IF YOU ARE AGE 65 OR OLDER) AFTER THE DATE OF THIS
 17 TRANSACTION. SEE THE ATTACHED NOTICE OF CANCELLATION FORM FOR
 18 AN EXPLANATION OF THIS RIGHT."

19 Attached to the receipt or contract shall be a completed
 20 form in duplicate, captioned "NOTICE OF CANCELLATION" which
 21 shall be easily detachable and which shall contain in 10 point
 22 bold face type the following information and statements in the
 23 same language as that used in the contract:

24 NOTICE OF CANCELLATION

25 (enter date of transaction)

26

1 (Date)

2 YOU MAY CANCEL THIS TRANSACTION, WITHOUT ANY PENALTY OR
3 OBLIGATION, WITHIN 3 BUSINESS DAYS (OR 15 BUSINESS DAYS IF YOU
4 ARE AGE 65 OR OLDER) FROM THE ABOVE DATE.

5 IF YOU CANCEL, ANY PROPERTY TRADED IN, ANY PAYMENTS MADE BY
6 YOU, AND ANY NEGOTIABLE INSTRUMENT EXECUTED BY YOU UNDER THE
7 CONTRACT OR TRANSACTION WILL BE RETURNED WITHIN 10 BUSINESS
8 DAYS FOLLOWING RECEIPT BY THE SELLER OF YOUR CANCELLATION
9 NOTICE, AND ANY SECURITY INTEREST ARISING OUT OF THE
10 TRANSACTION WILL BE CANCELLED.

11 IF YOU CANCEL, YOU MUST MAKE AVAILABLE TO THE SELLER AT
12 YOUR RESIDENCE IN SUBSTANTIALLY AS GOOD A CONDITION AS WHEN
13 RECEIVED, ANY GOODS DELIVERED TO YOU UNDER THIS CONTRACT OR
14 TRANSACTION, OR YOU MAY IF YOU WISH, COMPLY WITH THE
15 INSTRUCTIONS OF THE SELLER REGARDING THE RETURN SHIPMENT OF THE
16 GOODS AT THE SELLER'S EXPENSE AND RISK.

17 IF YOU MAKE THE GOODS AVAILABLE TO THE SELLER AND THE
18 SELLER DOES NOT PICK THEM UP WITHIN 20 DAYS OF THE DATE OF YOUR
19 NOTICE OF CANCELLATION, YOU MAY RETAIN OR DISPOSE OF THE GOODS
20 WITHOUT ANY FURTHER OBLIGATION. IF YOU FAIL TO MAKE THE GOODS
21 AVAILABLE TO THE SELLER, OR IF YOU AGREE TO RETURN THE GOODS TO
22 THE SELLER AND FAIL TO DO SO, THEN YOU REMAIN LIABLE FOR
23 PERFORMANCE OF ALL OBLIGATIONS UNDER THE CONTRACT.

24 TO CANCEL THIS TRANSACTION, MAIL OR DELIVER A SIGNED AND
25 DATED COPY OF THIS CANCELLATION NOTICE OR ANY OTHER WRITTEN
26 NOTICE, OR SEND A TELEGRAM, TO (Name of seller), AT (address of

1 seller's place of business) NOT LATER THAN MIDNIGHT OF (date).

2 I HEREBY CANCEL THIS TRANSACTION.

3 (Date)

4

5 (Buyer's signature)

6 Such written "Notice of Cancellation" may be sent by the
7 consumer to the person to cancel the contract. The 3 day period
8 (or 15 day period of the consumer is age 65 or older) provided
9 for in this Section does not commence until the consumer is
10 furnished a "Notice of Cancellation", and the address at which
11 such notice to the seller can be given. If those conditions are
12 met, the seller must return to the consumer the full amount of
13 any payment made or consideration given under the contract or
14 for the merchandise. It is an unlawful practice within the
15 meaning of this Act for any person to

16 (a) Fail, before furnishing copies of the "Notice of
17 Cancellation" to the consumer, to complete the copies by
18 entering the name of the person, the address of the person's
19 place of business, the date of the transaction, and the date,
20 not earlier than the third business day (or fifteenth business
21 day if the consumer is age 65 or older) following the date of
22 the transaction, by which the consumer may give notice of
23 cancellation;

24 (b) Include in any contract or receipt under this Section
25 any confession of judgment or any waiver of any of the rights
26 to which the consumer is entitled under this Section including

1 specifically his right to cancel the transaction in accordance
2 with the provisions of this Section;

3 (c) Fail to inform each consumer orally, at the time he
4 signs the contract or purchases or leases the goods or
5 services, of his right to cancel;

6 (d) Misrepresent in any manner the consumer's right to
7 cancel;

8 (e) Use any undue influence, coercion or any other wilful
9 act or representation to interfere with the consumer's exercise
10 of his rights under this Section;

11 (f) Fail or refuse to honor any valid notice of
12 cancellation by a consumer and within 10 business days after
13 the receipt of such notice, to

14 (i) refund all payments made under the contract or
15 sale,

16 (ii) return any goods or property traded in, in
17 substantially as good a condition as when received by the
18 person, or

19 (iii) cancel and return any negotiable instrument
20 executed by the consumer in connection with the contract or
21 transaction and take any action necessary or appropriate to
22 terminate promptly any security interest created in the
23 transaction;

24 (g) Negotiate, transfer, sell, or assign any note or other
25 evidence of indebtedness to a finance company or other third
26 party prior to midnight of the fifth business day following the

1 day the contract was signed or the goods or services were
2 purchased or leased; or

3 (h) Fail, within 10 business days of receipt of the
4 consumer's notice of cancellation, to notify him whether the
5 seller intends to repossess or to abandon any shipped or
6 delivered goods.

7 For the purposes of this Section, the word "sale" includes
8 a sale, lease or rental.

9 This Section does not apply to any transaction

10 (a) made pursuant to prior negotiations in the course of a
11 visit by the consumer to a retail business establishment having
12 a fixed permanent location where the goods are exhibited, or
13 the services are offered, for sale or lease on a continuing
14 basis;

15 (b) in which the consumer is accorded the right of
16 rescission by the provisions of the Consumer Credit Protection
17 Act (15 U.S.C. 1635) or regulations issued pursuant thereto;

18 (c) in which the consumer has initiated the contact and the
19 goods or services are needed to meet a bona fide immediate
20 personal emergency of the consumer, and the consumer furnishes
21 the person with a separate dated and signed personal statement
22 in the consumer's handwriting describing the situation
23 requiring immediate remedy and expressly acknowledging and
24 waiving the right to cancel the sale within 3 business days (or
25 15 business days if the consumer is age 65 or older);

26 (d) conducted and consummated entirely by mail or telephone

1 without any other contact between the consumer and the person
2 or its representative prior to delivery of the goods or
3 performance of the services;

4 (e) in which the consumer has initiated the contact and
5 specifically requested the person to visit his home for the
6 purpose of repairing or performing maintenance upon the
7 consumer's personal property, on the condition that if, in the
8 course of such a visit, the person sells the consumer the right
9 to receive additional services or goods other than replacement
10 parts necessarily used in performing the maintenance or in
11 making the repairs, the sale of those additional goods or
12 services does not fall within this exclusion;

13 (f) pertaining to the sale or rental of real property, to
14 the sale of insurance or to the sale of securities or
15 commodities by a broker-dealer registered with the Securities
16 and Exchange Commission; or

17 (g) between a consumer and a loan broker licensed under the
18 Residential Mortgage License Act of 1987 when (i) the
19 transaction involves obtaining a mortgage loan on real estate
20 and (ii) the first contact respecting the transaction is
21 initiated by the consumer or by another person at the request
22 of the consumer.

23 (Source: P.A. 90-764, eff. 1-1-99.)

24 Section 99. Effective date. This Act takes effect January
25 1, 2016."