

1 AN ACT concerning civil procedure.

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

4 Section 5. The Code of Civil Procedure is amended by
5 changing Section 2-801 as follows:

6 (735 ILCS 5/2-801) (from Ch. 110, par. 2-801)

7 Sec. 2-801. Class actions.

8 (a) Prerequisites to a Class Action. One or more members
9 of a class of Illinois residents may sue as representative
10 parties on behalf of all members of the class only if: (1)
11 the class is so numerous that joinder of all members is
12 impracticable; (2) there are questions of law or fact as to
13 which the court or jury could reasonably reach conclusions
14 or findings applicable to all class members; (3) the claims
15 or defenses of the representative parties are typical of the
16 claims or defenses of the class; (4) the representative
17 parties will fairly and adequately protect the interests of
18 the class; and (5) the class is defined so as to permit the
19 identification of class members before any merits
20 adjudications occur.

21 (b) Class Actions Maintainable. An action may be
22 maintained as a class action if the prerequisites of
23 subsection (a) are satisfied, and in addition:

24 (1) the prosecution of separate actions by or
25 against individual members of the class would create a
26 risk of:

27 (A) inconsistent or varying adjudications with
28 respect to individual members of the class which
29 would establish incompatible standards of conduct
30 for the party opposing the class; or

31 (B) adjudications with respect to individual

1 members of the class which would as a practical
2 matter be dispositive of the interests of the other
3 members not parties to the adjudications or
4 substantially impair or impede their ability to
5 protect their interests; or

6 (2) the party seeking to maintain the class action
7 does not seek any monetary relief and the party opposing
8 the class has acted or refused to act on grounds
9 generally applicable to the class, thereby making
10 appropriate final injunctive relief or corresponding
11 declaratory relief with respect to the class as a whole;
12 or

13 (3) the court finds: (i) that the questions of law
14 or fact as to which the court or jury could reasonably
15 reach conclusions or findings applicable to all class
16 members predominate over any questions affecting only
17 individual members; (ii) that the evidence likely to be
18 admitted at trial regarding the elements of the claims
19 for which certification is sought and of the defenses
20 thereto is substantially the same as to all class
21 members; and (iii) that a class action is superior to
22 other available methods for the fair and efficient
23 adjudication of the controversy. The matters pertinent to
24 the findings include: (A) the interest of members of the
25 class in individually controlling the prosecution or
26 defense of separate actions; (B) the extent, nature, and
27 maturity of any litigation concerning the controversy
28 already commenced by or against members of the class;
29 (C) whether it is probable that the amount which may be
30 recovered by individual class members will be large
31 enough in relation to the expense and effort of
32 administering the action to justify maintaining the case
33 as a class action; (D) the desirability or undesirability
34 of concentrating the litigation of the claims in the

1 particular forum; (E) the difficulties likely to be
2 encountered in the management of a class action; and (F)
3 the extent to which the allegations at issue are subject
4 to the jurisdiction of federal or State regulatory
5 agencies.

6 (c) Determination by Order Whether Class Action to be
7 Maintained; Notice; Judgment.

8 (1) When practicable after the commencement of an
9 action brought as a class action, the court shall, after
10 hearing, determine by order whether it is to be so
11 maintained. An order under this subsection (c) may be
12 altered, amended, or withdrawn at any time before the
13 decision on the merits.

14 (2) If the court finds that the action should be
15 maintained as a class action, it shall certify the
16 action accordingly on the basis of a written decision
17 setting forth all reasons why the action may be so
18 maintained and describing all evidence in support of the
19 determination.

20 (3) A court may not certify that an action may be
21 maintained as a class action unless, on the basis of a
22 full record on the relevant issues, the proponents
23 proffer clear and convincing evidence that the action
24 complies with all requirements for such certification.
25 Any doubt as to whether this burden has been met shall
26 be resolved in favor of denying class certification. The
27 court shall decertify a class action upon any showing
28 that an action has ceased to satisfy the applicable
29 prerequisites for maintaining the case as a class
30 action.

31 (4) There shall be a rebuttable presumption against
32 the maintenance of a class action as to claims for which
33 class members would have to prove knowledge, reliance, or
34 causation on an individual basis.

1 (5) The determination that an action may be
2 maintained as a class action shall not relieve any
3 member of the class from the burden of proving all
4 elements of the member's cause of action, including
5 individual injury and the amount of damages.

6 (6) In any class action maintained under
7 subdivision (b)(3), the court shall direct to the members
8 of the class the best notice practicable under the
9 circumstances, including individual notice to all members
10 who can be identified through reasonable effort. The
11 notice shall include:

12 (i) a general description of the action,
13 including the relief sought, and the names of the
14 representative parties;

15 (ii) a statement of the right of a member of
16 the class to be excluded from the action by
17 submitting an election to be excluded, including the
18 manner and time for exercising the election;

19 (iii) a description of possible financial
20 consequences for the class;

21 (iv) a general description of any counterclaim
22 or notice of intent to assert a counterclaim by or
23 against members of the class, including the relief
24 sought;

25 (v) a statement that the judgment, whether
26 favorable or not, will bind members of the class who
27 are not excluded from the action;

28 (vi) a statement that any member of the class
29 may intervene in the action and designate separate
30 counsel;

31 (vii) the address of counsel to whom members
32 of the proposed class may direct inquiries; and

33 (viii) other information that the court deems
34 appropriate.

1 (7) The plaintiff shall bear the expense of the
2 notification required by subdivision (c)(6). The court
3 may require other parties to the litigation to cooperate
4 in securing the names and addresses of the persons within
5 the class for the purpose of providing individual notice,
6 but any costs incurred by the party in providing such
7 cooperation shall be paid initially by the party claiming
8 the class action. Upon termination of the action, the
9 court may allow as taxable costs all or part of the
10 expenses incurred by the prevailing party.

11 (8) The judgment in an action maintained as a class
12 action under subdivision (b)(1) or (b)(2), whether or not
13 favorable to the class, shall include and describe those
14 whom the court finds to be members of the class. The
15 judgment in an action maintained as a class action under
16 subdivision (b)(3), whether or not favorable to the
17 class, shall include and specify or describe those to
18 whom the notice provided in subdivision (c)(2) was
19 directed, and who have not requested exclusion, and whom
20 the court finds to be members of the class.

21 (9) When appropriate, a class may be divided into
22 subclasses and each subclass treated as a class, and the
23 provisions of this Section shall then be construed and
24 applied accordingly.

25 (e) Orders in Conduct of Actions. In the conduct of
26 actions to which this Section applies, the court may make
27 appropriate orders: (1) determining the course of proceedings
28 or prescribing measures to prevent undue repetition or
29 complication in the presentation of evidence or argument; (2)
30 requiring, for the protection of members of the class or
31 otherwise for the fair conduct of the action, that notice be
32 given in such manner as the court may direct to some or all
33 of the members of any step in the action, or of the proposed
34 entry of judgment, or of the opportunity of members to

1 signify whether they consider the representation fair and
2 adequate, to intervene and present claims and defenses, or
3 otherwise to come into the action; (3) imposing conditions
4 on the representative parties or on intervenors; (4)
5 requiring that the pleadings be amended to eliminate
6 therefrom allegations as to representation of absent persons,
7 and that the action proceed accordingly; (5) dealing with
8 similar procedural matters.

9 (f) Dismissal or Compromise.

10 (1) A class action may not be dismissed or
11 compromised without the approval of the court, and notice
12 of the proposed dismissal or compromise shall be given to
13 all members of the class in such manner as the court
14 directs.

15 (2) Before approving the dismissal or a compromise
16 of an action that the court has determined may be
17 maintained as a class action, the court shall hold a
18 hearing to determine whether the terms of the proposed
19 dismissal or compromise are fair, reasonable and adequate
20 for the class. At the hearing, all parties to the action,
21 including members of the class, shall be permitted an
22 opportunity to be heard as the court may direct.

23 (g) Discovery. Representative parties and intervenors
24 are subject to discovery in the same manner as parties in
25 other civil actions. Other class members are subject to
26 discovery in the same manner as persons who are not parties,
27 but may be required by the court to submit to discovery
28 procedures applicable to the representative parties and
29 intervenors.

30 (h) Appeals. The appellate court shall hear appeals from
31 orders of circuit courts granting or denying class action
32 certification under this Section if a notice of appeal is
33 filed within 10 days after entry of the order. Prerequisites
34 for--the--maintenance--of--a--class--action--An-action-may-be

1 maintained-as-a-class-action-in-any-court-of-this-State-and-a
2 party-may-sue-or-be-sued-as-a--representative--party--of--the
3 class-only-if-the-court-finds:

4 (1)--The-class-is-so-numerous-that-joinder-of-all-members
5 is-impracticable.

6 (2)--There--are--questions--of--fact-or-law-common-to-the
7 class,--which-common-questions-predominate-over-any--questions
8 affecting-only-individual-members.

9 (3)--The---representative---parties---will---fairly---and
10 adequately-protect-the-interest-of-the-class.

11 (4)--The--class--action--is-an-appropriate-method-for-the
12 fair-and-efficient-adjudication-of-the-controversy.

13 (Source: P.A. 82-280.)

14 (735 ILCS 5/2-802 rep.)

15 (735 ILCS 5/2-803 rep.)

16 (735 ILCS 5/2-804 rep.)

17 (735 ILCS 5/2-805 rep.)

18 (735 ILCS 5/2-806 rep.)

19 Section 10. The Code of Civil Procedure is amended by
20 repealing Sections 2-802 through 2-806.

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