

1 AN ACT concerning civil law.

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

4 Section 1. Short title. This Act may be cited as the
5 Consumer Contract Reciprocal Attorney's Fees Act.

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

7 "Consumer contract" means any contract in which the money,
8 property, or service that is the subject of the transaction is
9 primarily for personal, family, or household purposes.

10 "Commercial party" means the person from whom money,
11 property, or services are acquired under the consumer contract
12 that is a seller, lender, participating lender, lessor,
13 creditor, or assignee.

14 "Debt buyer" has the meaning given to that term in Section
15 2 of the Collection Agency Act.

16 Section 10. Attorney's fees. If a consumer contract allows
17 for the recovery of attorney's fees in an action brought by a
18 commercial party to enforce the consumer contract, the court
19 may award reasonable attorney's fees to the defendant if the
20 defendant prevails in the action. A defendant prevails in an
21 action if:

22 (1) judgment is entered by the court in favor of the

1 defendant;

2 (2) a motion to dismiss the case is filed by the
3 defendant under Section 2-619 of the Code of Civil
4 Procedure and is granted by the court; or

5 (3) the plaintiff voluntarily dismisses the pending
6 case under Section 2-1009 of the Code of Civil Procedure
7 after a trial date has been set and after the pending case
8 has been previously filed on the same consumer contract
9 and dismissed under Section 2-1009 of the Code of Civil
10 Procedure.

11 Section 15. Applicability.

12 (a) This Act applies to any action filed on or after the
13 effective date of this Act:

14 (1) with respect to any consumer contract entered into
15 on or after the effective date of this Act; if the
16 commercial party filing the action is a debt buyer, this
17 Act applies irrespective of when the consumer contract was
18 made or acquired by the debt buyer; and

19 (2) if the principal amount claimed does not exceed
20 the maximum amount of a judgment allowable for a small
21 claim under the Illinois Supreme Court Rules.

22 (b) Notwithstanding subsection (a), this Act does not
23 apply if:

24 (1) the commercial party does not request attorney's
25 fees in its complaint; or

1 (2) each party to the consumer contract was
2 represented by counsel in the negotiation of the consumer
3 contract.

4 Section 20. Right to attorney's fees not limited. Nothing
5 in this Act shall be construed to apply to or limit the rights
6 of any party to attorney's fees under any other contract or as
7 authorized in relation to consumer contracts under other
8 provisions of State law.