



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB4258

Introduced 1/16/2024, by Rep. Eva-Dina Delgado and Diane Blair-Sherlock

SYNOPSIS AS INTRODUCED:

75 ILCS 12/5
75 ILCS 12/10
75 ILCS 12/15.1 new
75 ILCS 12/15.2 new
75 ILCS 12/15.3 new

Amends the License to Read Act. Defines terms. Provides that no contract or license agreement entered into between a publisher and library shall preclude, limit, or restrict the library from performing customary operational functions or lending functions, restrict the library from disclosing any terms of its license agreements to other libraries, or require, coerce, or enable the library to violate the Library Records Confidentiality Act. Provides that nothing in the amendatory Act affects existing contracts that are in effect on the effective date of the amendatory Act. Sets forth remedies. Contains a severability provision. Effective immediately.

LRB103 34645 AWJ 64487 b

1 AN ACT concerning local government.

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

4 Section 5. The License to Read Act is amended by changing
5 Sections 5 and 10 and by adding Sections 15.1, 15.2, and 15.3
6 as follows:

7 (75 ILCS 12/5)

8 Sec. 5. Findings. The General Assembly finds:

9 (1) It is in the best interests of the State for the
10 State Librarian to be authorized to facilitate the
11 acquisition and use of digital content by pooling the
12 buying power of the Illinois' libraries and library
13 systems and to provide e-books and e-audiobooks to patrons
14 to the fullest extent possible.

15 (2) It is in the best interests of the State for
16 libraries, as defined in Section 10, to be authorized to
17 enter into licensing agreements with literary publishers
18 and to provide e-books and e-audiobooks to patrons to the
19 fullest extent possible.

20 (3) ~~(2)~~ This Act should be administered by the State
21 Librarian to support all libraries within the State.

22 (4) ~~(3)~~ To achieve the purposes of this Act, the State
23 Librarian should have the authority to make grants under

1 this Act to assist libraries in providing access to
2 e-books and e-audiobooks.

3 (Source: P.A. 103-267, eff. 6-30-23.)

4 (75 ILCS 12/10)

5 Sec. 10. Definitions. As used in this Act:

6 "Aggregator" means a person or organization whose business
7 is the licensing of access to electronic literary material
8 collections that include electronic literary material from
9 multiple publishers.

10 "Borrower" means a person or organization, including
11 another library, to whom the library loans electronic literary
12 materials of any sort.

13 "E-audiobook" means an audio recording of a text document
14 that is read out loud in an electronic format that is listened
15 to on a computer, tablet, smart phone, or other electronic
16 device.

17 "E-book" means a text document that has been converted
18 into or published in an electronic format that is read on a
19 computer, tablet, smart phone, or other electronic device.

20 "Electronic literary materials" means e-audiobooks and
21 e-books.

22 "Library" means an entity that:

23 (1) serves, either directly or through contractual
24 services provided by another library, the basic
25 information and library needs of its patrons through a

1 bibliographically organized collection of library
2 materials that has ongoing financial support and is
3 accessible centrally;

4 (2) is open at least 15 hours per week; and

5 (3) is staffed by one or more employees serving as
6 librarians working a minimum of 15 hours per week.

7 "Library" includes public libraries, public elementary
8 school or secondary school libraries, academic libraries,
9 research libraries, special libraries, talking book libraries,
10 and archives.

11 "Loan" means to create and transmit to a borrower a copy of
12 electronic literary material and delete it at the end of the
13 loan period.

14 "Loan period" means the time between the transmission of
15 the copy of the electronic literary material to a borrower and
16 the deletion of the copy of the electronic literary material,
17 as determined by the individual library.

18 "Publisher" means a person or organization whose business
19 is the manufacture, promulgation, license, and sale of books,
20 audiobooks, journals, magazines, newspapers, or other literary
21 productions, including those in the form of electronic
22 literary materials. "Publisher" includes aggregators who enter
23 into contracts with libraries for the purposes of providing
24 materials for purchase or license from publishers.

25 "Reasonable terms" means purchasing or licensing
26 specifications that consider a publisher's business model and

1 a library's need to continue its mission to provide access to
2 materials and the efficient use of funds in providing library
3 services.

4 "Technological protection measures" means any technology
5 that ensures the secure loaning or circulation by a library of
6 electronic literary materials.

7 "Virtually" means transmitted to receiving parties via the
8 Internet in such a way that the transmission appears in front
9 of the receiving parties on a computer, tablet, smart phone,
10 or electronic device.

11 (Source: P.A. 103-267, eff. 6-30-23.)

12 (75 ILCS 12/15.1 new)

13 Sec. 15.1. Contracts between libraries and publishers.

14 (a) Any contract between a publisher and a library to
15 license electronic literary materials to the public in this
16 State shall be governed by this Section.

17 (b) No contract or license agreement entered into between
18 any publisher and any library shall:

19 (1) Preclude, limit, or restrict the library from
20 performing customary operational functions, including any
21 provision that:

22 (A) precludes, limits, or restricts the library
23 from licensing electronic literary materials from
24 publishers;

25 (B) precludes, limits, or restricts the library's

1 ability to employ technological protection measures
2 necessary to loan electronic literary materials;

3 (C) precludes, limits, or restricts the library's
4 right to make nonpublic preservation copies of the
5 electronic literary materials; or

6 (D) precludes, limits, or restricts the library's
7 right to loan electronic literary materials via
8 interlibrary loan systems.

9 (2) Preclude, limit, or restrict the library from
10 performing customary lending functions, including any
11 provision that:

12 (A) precludes, limits, or restricts the library
13 from loaning electronic literary materials to
14 borrowers;

15 (B) restricts the library's right to determine
16 loan periods for licensed electronic literary
17 materials;

18 (C) requires the library to acquire a license for
19 any electronic literary material at a price greater
20 than that charged to the public for the same item;

21 (D) restricts the number of licenses for
22 electronic literary materials that the library may
23 acquire after the same item is made available to the
24 public;

25 (E) requires the library to pay a
26 cost-per-circulation fee to loan electronic literary

1 materials, unless that fee is lower in aggregate than
2 the cost of purchasing the item outright;

3 (F) restricts the total number of times a library
4 may loan any licensed electronic literary materials
5 during any license agreement or restricts the duration
6 of any license agreement, unless the publisher also
7 offers a license agreement to libraries for perpetual
8 public use without such restrictions at a price which
9 is considered reasonable and equitable as agreed to by
10 both parties; or

11 (G) restricts or limits the library's ability to
12 virtually recite text and display artwork of any
13 materials to library patrons such that the materials
14 would not have the same educational utility as when
15 recited or displayed at a library facility.

16 (3) Restrict the library from disclosing any terms of
17 its license agreements to other libraries.

18 (4) Require, coerce, or enable the library to violate
19 the law protecting the confidentiality of a patron's
20 library records under the Library Records Confidentiality
21 Act.

22 (75 ILCS 12/15.2 new)

23 Sec. 15.2. Remedies.

24 (a) Contracts or offers to license electronic literary
25 materials to a library that include a prohibited provision

1 under this Act constitute unfair and deceptive practices
2 within the meaning of the Consumer Fraud and Deceptive
3 Business Practices Act and shall be deemed void and
4 unenforceable. Any waiver of the provisions of this Act is
5 contrary to public policy and shall be deemed unenforceable
6 and void.

7 (b) Actions for relief pursuant to this Act may be brought
8 by libraries, library officers, or library borrowers.

9 (75 ILCS 12/15.3 new)

10 Sec. 15.3. Existing contracts. Nothing in this amendatory
11 Act of the 103rd General Assembly affects existing contracts
12 that are in force on the effective date of this amendatory Act
13 of the 103rd General Assembly providing libraries with
14 electronic literary materials from vendors and aggregators.

15 Section 97. Severability. The provisions of this Act are
16 severable under Section 1.31 of the Statute on Statutes.

17 Section 99. Effective date. This Act takes effect upon
18 becoming law.