



Rep. Curtis J. Tarver, II

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10300SB3314ham002

LRB103 39360 SPS 73072 a

1 AMENDMENT TO SENATE BILL 3314

2 AMENDMENT NO. _____. Amend Senate Bill 3314 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Consumer Legal Funding Act is amended by
5 changing Sections 5, 25, 30, 55, 65, 135, 165, and 170 as
6 follows:

7 (815 ILCS 121/5)

8 Sec. 5. Definitions.

9 "Advertise" means publishing or disseminating any written,
10 electronic, or printed communication, or any communication by
11 means of recorded telephone messages or transmitted on radio,
12 television, the Internet, or similar communications media,
13 including film strips, motion pictures, and videos, published,
14 disseminated, circulated, or placed before the public,
15 directly or indirectly, for the purpose of inducing a consumer
16 to enter into a consumer legal funding.

1 "Charges" means the fees, as set forth in Section 25, to be
2 paid to the consumer legal funding company by or on behalf of
3 the consumer above the funded amount provided by or on behalf
4 of the company to an Illinois consumer pursuant to this Act.

5 "Consumer" means a natural person who has a pending legal
6 claim and who resides or is domiciled in Illinois.

7 "Consumer legal funding" or "funding" means a nonrecourse
8 transaction in which a company purchases and a consumer
9 transfers to the company an unvested, contingent future
10 interest in the potential net proceeds of a settlement or
11 judgment obtained from the consumer's legal claim; and in
12 which, if no proceeds are obtained from the consumer's legal
13 claim, the consumer is not required to repay the company the
14 consumer legal funding amount or charges.

15 "Consumer legal funding company" or "company" means a
16 person or entity that enters into, purchases, or services a
17 consumer legal funding transaction with an Illinois consumer.

18 "Consumer legal funding company" does not include:

19 (1) an immediate family member of the consumer;

20 (2) a bank, lender, financing entity, or other special
21 purpose entity:

22 (A) that provides financing to a consumer legal
23 funding company; or

24 (B) to which a consumer legal funding company
25 grants a security interest or transfers any rights or
26 interest in a consumer legal funding; or

1 (3) an attorney or accountant who provides services to
2 a consumer.

3 "Department" means the Department of Financial and
4 Professional Regulation.

5 "Funded amount" means the amount of moneys provided to, or
6 on behalf of, the consumer in the consumer legal funding.
7 "Funded amount" does not include charges except for charges
8 that are deducted from the funded amount.

9 "Funding date" means the date on which the funded amount
10 is transferred to the consumer by the consumer legal funding
11 company either by personal delivery; via wire, ACH, or other
12 electronic means; or mailed by insured, certified, or
13 registered United States mail.

14 "Immediate family member" means a parent; sibling; child
15 by blood, adoption, or marriage; spouse; grandparent; or
16 grandchild.

17 "Legal claim" means a bona fide civil claim or cause of
18 action.

19 "Resolution amount" means the funded amount plus the
20 agreed-upon charges that are delivered to the consumer legal
21 funding company on the resolution date.

22 "Resolution date" means the date the resolution amount is
23 delivered to the consumer legal funding company.

24 "Secretary" means the Secretary of Financial and
25 Professional Regulation or the Secretary's designee.

26 (Source: P.A. 102-987, eff. 5-27-22.)

1 (815 ILCS 121/25)

2 Sec. 25. Fees.

3 (a) The fee charged by a consumer legal funding company to
4 the consumer shall be calculated as not more than 18% of the
5 funded amount, assessed on the outset of every 6 months.

6 (b) In addition, a consumer legal funding company may
7 charge a document preparation fee not to exceed \$75, which may
8 be deducted from the funded amount. This fee is to be used to
9 defray the ordinary cost of opening, administering, and
10 terminating a consumer legal funding.

11 (c) A consumer legal funding company shall not collect any
12 additional fees unless otherwise specified in this Act.

13 (d) No charges may accrue on a consumer legal funding for
14 more than 42 months after the funding date of the consumer
15 legal funding. No consumer legal funding may be refinanced
16 except as authorized by rule. Notwithstanding the foregoing, a
17 consumer legal funding company may assess charges on any
18 additional amounts provided after the funding date for 42
19 months after the additional funding date.

20 (e) Notwithstanding any other law, a consumer legal
21 funding may be refinanced as authorized by rule. The
22 Department shall publish first notice of a rule concerning the
23 refinancing of consumer legal fundings in the Illinois
24 Register in accordance with the Illinois Administrative
25 Procedure Act within 120 days after the effective date of this

1 amendatory Act of the 103rd General Assembly.

2 (Source: P.A. 102-987, eff. 5-27-22.)

3 (815 ILCS 121/30)

4 Sec. 30. Disclosures. All consumer legal funding contracts
5 shall contain the disclosures specified in this Section, which
6 shall constitute material terms of the contract. Unless
7 otherwise specified, the disclosures shall be typed in at
8 least 12-point bold-type font and be placed clearly and
9 conspicuously within the contract as follows:

10 (1) On the front page under appropriate headings,
11 language specifying:

12 (A) the funded amount to be paid to the consumer or
13 on the consumer's behalf by the consumer legal funding
14 company;

15 (B) an itemization of charges;

16 (C) the maximum total amount to be paid by the
17 consumer to the company, including the funded amount
18 and all fees; and

19 (D) a payment schedule to include the resolution
20 amount, listing dates, and the amount due at the end of
21 each 6-month period from the funding date, until the
22 date the maximum amount is due to the company by the
23 consumer to satisfy the amount due pursuant to the
24 contract.

25 (2) Pursuant to the provisions set forth in paragraph

1 (2) of subsection (a) of Section 10, within the body of the
2 contract: "CONSUMER'S RIGHT TO CANCELLATION: You may
3 cancel this contract without penalty or further obligation
4 within 14 business days after the funding date if you
5 either:

6 (A) return to the consumer legal funding company
7 the full amount of the funds disbursed to you or on
8 your behalf by delivering the company's uncashed check
9 to the company's office in person; or

10 (B) place in the mail, by mail service materially
11 equivalent to United States Postal Service certified
12 mail, addressed to the company at the address
13 specified in the contract, a notice of cancellation
14 and include in such mailing a return of the full amount
15 of funds disbursed to you or on your behalf in the form
16 of the company's uncashed check or a registered or
17 certified check or money order."

18 (3) Within the body of the contract: "The consumer
19 legal funding company shall have no role in deciding
20 whether, when, and how much the legal claim is settled
21 for, however, the consumer and consumer's attorney must
22 notify the company of the outcome of the legal claim by
23 settlement or adjudication before the resolution date. The
24 company may seek updated information about the status of
25 the legal claim but in no event shall the company
26 interfere with the independent professional judgment of

1 the attorney in the handling of the legal claim or any
2 settlement thereof."

3 (4) Within the body of the contract, in all capital
4 letters in at least 12-point bold-type font contained
5 within a box: "THE FUNDED AMOUNT AND AGREED-UPON CHARGES
6 SHALL BE PAID ONLY FROM THE PROCEEDS OF YOUR LEGAL CLAIM,
7 AND SHALL BE PAID ONLY TO THE EXTENT THAT THERE ARE
8 AVAILABLE PROCEEDS FROM YOUR LEGAL CLAIM. YOU WILL NOT OWE
9 [INSERT NAME OF THE CONSUMER LEGAL FUNDING COMPANY]
10 ANYTHING IF THERE ARE NO REMAINING PROCEEDS AVAILABLE FROM
11 YOUR LEGAL CLAIM, UNLESS YOU OR YOUR ATTORNEY HAVE
12 COMMITTED FRAUD AGAINST THE CONSUMER LEGAL FUNDING
13 COMPANY. NOTWITHSTANDING ANYTHING TO THE CONTRARY, YOU MAY
14 REFINANCE THE FUNDED AMOUNT AND AGREED UPON CHARGES AS
15 AUTHORIZED BY RULE."

16 (5) Located immediately above the place on the
17 contract where the consumer's signature is required, in
18 12-point font: "Do not sign this contract before you read
19 it completely or if it contains any blank spaces. You are
20 entitled to a completely filled-in copy of the contract.
21 Before you sign this contract, you should obtain the
22 advice of an attorney. Depending on the circumstances, you
23 may want to consult a tax, public or private benefits
24 planning, or financial professional. You acknowledge that
25 your attorney in the legal claim has provided no tax,
26 public or private benefit planning, or financial advice

1 regarding this transaction."

2 (6) The consumer legal funding company shall provide
3 the consumer with information on accessing a financial
4 coaching program no later than the funding date.

5 (Source: P.A. 102-987, eff. 5-27-22.)

6 (815 ILCS 121/55)

7 Sec. 55. Consumer legal funding license scope.

8 (a) It shall be unlawful for any person or entity to
9 operate as a consumer legal funding company ~~provider~~ in this
10 State except as authorized by this Act and without first
11 having obtained a license in accordance with this Act. No
12 person or entity may engage in any device, subterfuge, or
13 pretense to evade the requirements of this Act. However, any
14 company that has a license in good standing under the Consumer
15 Installment Loan Act on the effective date of this Act shall be
16 entitled to make consumer legal fundings under the terms of
17 this Act upon the effective date of this Act if that company
18 files an application for a consumer legal funding license
19 within 60 days after the Department issues forms for the
20 filing of that application and until the Department approves
21 or denies the application for a funding license. Any consumer
22 legal funding contract made by any person or entity in
23 violation of this subsection shall be null and void and the
24 person or entity who entered into the consumer legal funding
25 transaction shall have no right to collect, attempt to

1 collect, receive, or retain any principal, interest, or
2 charges related to the consumer legal funding transaction.

3 (b) The provisions of this Act do not apply to a bank,
4 savings bank, savings association, or credit union organized
5 under the laws of this State, any other state, or under the
6 laws of the United States.

7 (c) Any consumer legal funding made by a person not
8 licensed under this Act, including a person holding an
9 inactive license, and not exempt under this Act shall be null
10 and void, and no person or entity shall have any right to
11 collect, attempt to collect, receive, or retain any principal,
12 fee, interest, or charges related to the funding.

13 (Source: P.A. 102-987, eff. 5-27-22.)

14 (815 ILCS 121/65)

15 Sec. 65. License application process; investigation.

16 (a) The Secretary may issue a license upon completion of
17 all of the following:

18 (1) the filing of an application for a license with
19 the Secretary or the Nationwide Multistate Licensing
20 System and Registry as required by the Secretary;

21 (2) the filing with the Secretary of a listing of
22 judgments entered against and bankruptcy petitions by the
23 license applicant for the preceding 10 years;

24 (3) the filing of an audited balance sheet, including
25 all footnotes prepared by a certified public accountant in

1 accordance with generally accepted accounting principles
2 and generally accepted auditing standards; notwithstanding
3 the requirements of this subsection, an applicant that is
4 a subsidiary may submit audited consolidated financial
5 statements of its parent, intermediary parent, or ultimate
6 parent if the consolidated statements are supported by
7 consolidating statements that include the applicant's
8 financial statement; if the consolidating statements are
9 unaudited, the applicant's chief financial officer shall
10 attest to the applicant's financial statements disclosed
11 in the consolidating statements; and

12 (4) an investigation of the averments required by
13 Section 80, which investigation must allow the Secretary
14 to issue positive findings stating that the financial
15 responsibility, experience, character, and general fitness
16 of the license applicant; of the members thereof if the
17 license applicant is a partnership or association; of the
18 officers and directors thereof if the license applicant is
19 a corporation; and of the managers and members that retain
20 any authority or responsibility under the operating
21 agreement if the license applicant is a limited liability
22 company are such as to command the confidence of the
23 community and to warrant belief that the business will be
24 operated honestly, fairly, and efficiently within the
25 purpose of this Act; if the Secretary does not so find, he
26 or she shall not issue the license and shall notify the

1 license applicant of the denial. The Secretary may impose
2 conditions on a license if the Secretary determines that
3 those conditions are necessary or appropriate. These
4 conditions shall be imposed in writing and shall continue
5 in effect for a period prescribed by the Secretary.

6 (b) All licenses shall be issued to the license applicant.
7 Upon receipt of the license, a consumer legal funding licensee
8 shall be authorized to engage in the business regulated by
9 this Act. The license shall remain in full force and effect
10 until it expires, it is surrendered by the licensee, or it is
11 revoked or suspended as provided by this Act.

12 (c) The Secretary may, for good cause shown, waive, in
13 part, any of the requirements of this Section.

14 (Source: P.A. 102-987, eff. 5-27-22.)

15 (815 ILCS 121/135)

16 Sec. 135. Suspension; revocation of licenses; fines.

17 (a) Upon written notice to a licensee, the Secretary may
18 suspend or revoke any license issued pursuant to this Act if,
19 in the notice, he or she makes a finding of one or more of the
20 following:

21 (1) that through separate acts or an act or a course of
22 conduct, the licensee has violated any provisions of this
23 Act, any rule adopted by the Department, or any other law,
24 rule, or regulation of this State or the United States;

25 (2) that any fact or condition exists that, if it had

1 existed at the time of the original application for the
2 license, would have warranted the Secretary in refusing
3 originally to issue the license; or

4 (3) that if a licensee is other than an individual,
5 any ultimate equitable owner, officer, director, or member
6 of the licensed partnership, association, corporation, or
7 other entity has acted or failed to act in a way that would
8 be cause for suspending or revoking a license to that
9 party as an individual.

10 (b) No license shall be suspended or revoked, except as
11 provided in this Section, nor shall any licensee be fined
12 without notice of his or her right to a hearing as provided in
13 subsection (n).

14 (c) The Secretary, on good cause shown that an emergency
15 exists, may suspend any license for a period not exceeding 180
16 days, pending investigation.

17 (d) The provisions of subsection (d) of Section 95 shall
18 not affect a licensee's civil or criminal liability for acts
19 committed before surrender of a license.

20 (e) No revocation, suspension, or surrender of any license
21 shall impair or affect the obligation of any preexisting
22 lawful contract between the licensee and any person.

23 (f) Every license issued under this Act shall remain in
24 force and effect until the license expires without renewal, is
25 surrendered, is revoked, or is suspended in accordance with
26 the provisions of this Act, but the Secretary shall have

1 authority to reinstate a suspended license or to issue a new
2 license to a licensee whose license has been revoked if no fact
3 or condition then exists which would have warranted the
4 Secretary in refusing originally to issue that license under
5 this Act.

6 (g) Whenever the Secretary revokes or suspends a license
7 issued pursuant to this Act or fines a licensee under this Act,
8 he or she shall execute a written order to that effect. The
9 Secretary shall serve a copy of the order upon the licensee.
10 Any such order may be reviewed in the manner provided by
11 Section 170.

12 (h) If the Secretary finds any person in violation of the
13 grounds set forth in subsection (p), he or she may enter an
14 order imposing one or more of the following penalties:

15 (1) revocation of license;

16 (2) suspension of a license subject to reinstatement
17 upon satisfying all reasonable conditions the Secretary
18 may specify;

19 (3) placement of the licensee or applicant on
20 probation for a period of time and subject to all
21 reasonable conditions as the Secretary may specify;

22 (4) issuance of a reprimand;

23 (5) imposition of a fine not to exceed \$25,000 for
24 each count of separate offense; except that a fine may be
25 imposed that shall not exceed \$75,000 for each separate
26 count of offense in violation of paragraph (2) or (14) of

1 subsection (p) ~~(i)~~;

2 (6) denial of a license; or

3 (7) restitution for the benefit of consumers.

4 (i) (Blank). ~~The Secretary may, after 10 days' notice by~~
5 ~~certified mail to the licensee at the address set forth in the~~
6 ~~license stating the contemplated action and in general the~~
7 ~~grounds therefor, fine the licensee an amount not exceeding~~
8 ~~\$10,000 per violation or revoke or suspend any license issued~~
9 ~~under this Act if he or she finds that:~~

10 ~~(1) the licensee has failed to comply with any~~
11 ~~provision of this Act, any rule adopted pursuant to this~~
12 ~~Act, or any order, decision, finding, or direction of the~~
13 ~~Secretary lawfully made pursuant to the authority of this~~
14 ~~Act; or~~

15 ~~(2) any fact or condition exists which, if it had~~
16 ~~existed at the time of the original application for the~~
17 ~~license, clearly would have warranted the Secretary in~~
18 ~~refusing to issue the license.~~

19 (j) The Secretary may fine, suspend, or revoke only the
20 particular license with respect to which grounds for the fine,
21 revocation, or suspension occur or exist, but if the Secretary
22 finds that grounds for revocation are of general application
23 to all offices or to more than one office of the licensee, the
24 Secretary shall fine, suspend, or revoke every license to
25 which the grounds apply.

26 (k) No revocation, suspension, or surrender of any license

1 shall impair or affect the obligation of any preexisting
2 lawful contract between the licensee and any obligor.

3 (l) The Secretary may issue a new license to a licensee
4 whose license has been revoked when facts or conditions which
5 clearly would have warranted the Secretary in refusing
6 originally to issue the license no longer exist.

7 (m) In every case in which a license is suspended or
8 revoked or an application for a license or renewal of a license
9 is denied, the Secretary shall serve the licensee with notice
10 of his or her action, including a statement of the reasons for
11 his or her actions, either personally or by certified mail.
12 Service by certified mail shall be deemed completed when the
13 notice is deposited in the U.S. mail.

14 (n) An order assessing a fine, an order revoking or
15 suspending a license, or an order denying renewal of a license
16 shall take effect upon service of the order unless the
17 licensee requests a hearing, in writing, within 10 days after
18 the date of service. If a hearing is requested, the order shall
19 be stayed until a final administrative order is entered.

20 (1) If the licensee requests a hearing, the Secretary
21 shall schedule a hearing within 30 days after the request
22 for a hearing unless otherwise agreed to by the parties.

23 (2) The hearing shall be held at the time and place
24 designated by the Secretary. The Secretary and any
25 administrative law judge designated by him or her shall
26 have the power to administer oaths and affirmations,

1 subpoena witnesses and compel their attendance, take
2 evidence, and require the production of books, papers,
3 correspondence, and other records or information that he
4 or she considers relevant or material to the inquiry.

5 (o) The costs of administrative hearings conducted
6 pursuant to this Section shall be paid by the licensee.

7 (p) The following acts shall constitute grounds for which
8 the disciplinary actions specified in subsection (h) may be
9 taken:

10 (1) being convicted or found guilty, regardless of
11 pendency of an appeal, of a crime in any jurisdiction that
12 involves fraud, dishonest dealing, or any other act of
13 moral turpitude;

14 (2) fraud, misrepresentation, deceit, or negligence in
15 any relation to any consumer legal funding;

16 (3) a material or intentional misstatement of fact on
17 an initial or renewal application;

18 (3.5) any fact or condition exists that, if it had
19 existed at the time of the original application for the
20 license, would have warranted the Secretary in refusing to
21 originally issue the license;

22 (4) insolvency or filing under any provision of the
23 United States Bankruptcy Code as a debtor;

24 (5) failure to account or deliver to any person any
25 property, such as any money, fund, deposit, check, draft,
26 or other document or thing of value, that has come into his

1 or her hands and that is not his or her property or that he
2 or she is not in law or equity entitled to retain, under
3 the circumstances and at the time which has been agreed
4 upon or is required by law, or, in the absence of a fixed
5 time, upon demand of the person entitled to such
6 accounting and delivery;

7 (6) failure to disburse funds in accordance with
8 agreements;

9 (7) having a license, or the equivalent, to practice
10 any profession or occupation revoked, suspended, or
11 otherwise acted against, including the denial of licensure
12 by a licensing authority of this State or another state,
13 territory, or country, for fraud, dishonest dealing, or
14 any other act of moral turpitude;

15 (8) failure to comply with an order of the Secretary
16 or rule adopted under the provisions of this Act;

17 (9) engaging in activities regulated by this Act
18 without a current, active license unless specifically
19 exempted by this Act;

20 (10) failure to pay in a timely manner any fee,
21 charge, or fine under this Act;

22 (11) failure to maintain, preserve, and keep available
23 for examination all books, accounts, or other documents
24 required by the provisions of this Act and the rules of the
25 Department;

26 (12) refusing, obstructing, evading, or unreasonably

1 delaying an investigation, information request, or
2 examination authorized under this Act, or refusing,
3 obstructing, evading, or unreasonably delaying compliance
4 with the Secretary's subpoena or subpoena duces tecum;

5 (13) failure to comply with or a violation of any
6 provision of this Act; and

7 (14) any unfair, deceptive, or abusive business
8 practice.

9 (q) A licensee shall be subject to the disciplinary
10 actions specified in this Act for violations of subsection (i)
11 by any officer, director, shareholder, joint venture, partner,
12 ultimate equitable owner, or employee of the licensee.

13 (r) A licensee shall be subject to suspension or
14 revocation for unauthorized employee actions only if there is
15 a pattern of repeated violations by employees, the licensee
16 has knowledge of the violations, or there is substantial harm
17 to a consumer. A licensee may be subject to fine for employee
18 actions, whether authorized or unauthorized, whether there is
19 a pattern of repeated violations or no pattern of repeated
20 violations.

21 (s) Any licensee may submit an application to surrender a
22 license, but, upon the Secretary approving the surrender, it
23 shall not affect the licensee's civil or criminal liability
24 for acts committed before surrender or entitle the licensee to
25 a return of any part of the license fee.

26 (Source: P.A. 102-987, eff. 5-27-22.)

1 (815 ILCS 121/165)

2 Sec. 165. Rules of the Department.

3 (a) In addition to such powers as may be prescribed by this
4 Act, the Department is hereby authorized and empowered to
5 adopt rules consistent with the purposes of this Act,
6 including, but not limited to:

7 (1) rules in connection with the activities of
8 licensees or unlicensed consumer legal funding companies
9 as may be necessary and appropriate for the protection of
10 consumers in this State;

11 (2) rules as may be necessary and appropriate to
12 define improper or fraudulent business practices in
13 connection with the activities of licensees in servicing
14 consumer legal fundings;

15 (3) rules that define the terms used in this Act and as
16 may be necessary and appropriate to interpret and
17 implement the provisions of this Act; ~~and~~

18 (4) rules as may be necessary for the enforcement and
19 administration of this Act; and -

20 (5) rules to permit the refinancing of consumer legal
21 fundings.

22 (b) The Secretary is hereby authorized and empowered to
23 make specific rulings, demands, and findings that he or she
24 deems necessary for the proper conduct of the consumer legal
25 funding company industry.

1 (Source: P.A. 102-987, eff. 5-27-22.)

2 (815 ILCS 121/170)

3 Sec. 170. Appeal and review.

4 (a) The Department may, in accordance with the Illinois
5 Administrative Procedure Act, adopt rules to provide for
6 review within the Department of the Secretary's decisions
7 affecting the rights of persons or entities under this Act.
8 The review shall provide for, at a minimum:

9 (1) appointment of a hearing officer other than a
10 regular employee of the Division of Financial Institutions
11 ~~Department~~;

12 (2) appropriate procedural rules, specific deadlines
13 for filings, and standards of evidence and of proof; and

14 (3) provision for apportioning costs among parties to
15 the appeal.

16 (b) All final agency determinations of appeals to
17 decisions of the Secretary may be reviewed in accordance with
18 and under the provisions of the Administrative Review Law.
19 Appeals from all final orders and judgments entered by a court
20 in review of any final administrative decision of the
21 Secretary or of any final agency review of a decision of the
22 Secretary may be taken as in other civil cases.

23 (Source: P.A. 102-987, eff. 5-27-22.)".