



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB4123

by Rep. Michael J. Zalewski

SYNOPSIS AS INTRODUCED:

815 ILCS 301/15
815 ILCS 505/2Z

from Ch. 121 1/2, par. 262Z

Amends the Assistive Technology Warranty Act. Provides that complaints arising under the replacement and refund provisions of the Act may be filed with the Office of the Attorney General. Provides that the Office of the Attorney General shall designate an Assistant Attorney General from the Attorney General's Consumer Fraud Bureau to handle the complaints. Provides that the Office of the Attorney General shall establish a toll-free telephone number and website that consumers may use to file complaints. Establishes that a violation of the replacement and refund provisions of the Act is an unlawful practice under the Consumer Fraud and Deceptive Business Practices Act. Grants to the Attorney General enforcement powers and remedies under the Consumer Fraud and Deceptive Business Practices Act with respect to certain actions under the Assistive Technology Warranty Act. Makes conforming changes in the Consumer Fraud and Deceptive Business Practices Act.

LRB097 15752 JLS 62077 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning business.

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

4 Section 5. The Assistive Technology Warranty Act is amended
5 by changing Section 15 as follows:

6 (815 ILCS 301/15)

7 Sec. 15. Assistive technology device replacement or
8 refund.

9 (a) If a new assistive technology device does not conform
10 to an applicable express warranty and the consumer (i) reports
11 the nonconformity to the manufacturer, the assistive
12 technology device lessor, or any of the manufacturer's
13 authorized assistive technology device dealers and (ii) makes
14 the assistive technology device available for repair before one
15 year after the first delivery of the device to the consumer or
16 within the period of the express warranty if the express
17 warranty is longer than one year, then a reasonable attempt to
18 repair the nonconformity must be made at no charge to the
19 consumer.

20 (b) If, after a reasonable attempt to repair, the
21 nonconformity is not repaired, the person from whom the
22 assistive technology device was purchased or leased must carry
23 out the requirements of either item (1) or item (2) of this

1 subsection at the option of the consumer:

2 (1) The person from whom the assistive technology
3 device was purchased or leased shall provide a refund to
4 the consumer within 30 days after the request by the
5 consumer. If the consumer chooses this option, he or she
6 shall return the device having a nonconformity to the
7 person from whom the assistive technology device was
8 purchased or leased along with any endorsements necessary
9 to transfer legal possession to the person from whom the
10 assistive technology device was purchased or leased.

11 If the assistive technology device was purchased by
12 the consumer, the person from whom the assistive technology
13 device was purchased shall accept return of the assistive
14 technology device and refund to the consumer, and to any
15 holder of a perfected security interest in the assistive
16 technology device as the holder's interest may appear, the
17 full purchase price plus any finance charge paid by the
18 consumer at the point of sale and collateral costs, less a
19 reasonable allowance for use.

20 If the assistive technology device was leased by the
21 consumer, the person from whom the assistive technology
22 device was leased shall accept return of the device, refund
23 to the assistive technology lessor and to any holder of a
24 perfected security interest in the device, as the holder's
25 interest may appear, the current value of the written
26 lease, and refund to the consumer the amount that the

1 consumer paid under the written lease plus any collateral
2 costs, less a reasonable allowance for use.

3 (2) The person from whom the assistive technology
4 device was purchased or leased shall provide a comparable
5 new assistive technology device. The consumer shall offer
6 to transfer possession of the device having a nonconformity
7 to the person from whom the assistive technology device was
8 purchased or leased. No later than 30 days after that
9 offer, the person from whom the assistive technology device
10 was purchased or leased shall provide the consumer with the
11 comparable new assistive device. Upon receipt of the
12 comparable new assistive device, the consumer shall return
13 the device having the nonconformity to the person from whom
14 the assistive technology device was purchased or leased,
15 along with any endorsements necessary to transfer legal
16 possession to the person from whom the assistive technology
17 device was purchased or leased.

18 (c) For purposes of this Section, "current value of the
19 written lease" means the total amount for which that lease
20 obligates the consumer during the period of the lease remaining
21 after its early termination, plus the assistive device lessor's
22 early termination costs and the value of the assistive device
23 at the lease expiration date if the lease sets forth that
24 value, less the assistive device lessor's early termination
25 savings.

26 (d) For purposes of this Section, a "reasonable allowance

1 for use" may not exceed the amount obtained by multiplying the
2 total amount for which the written lease obligates the consumer
3 by a fraction, the denominator of which is 1,825 and the
4 numerator of which is the number of days that the consumer used
5 the assistive device before first reporting the nonconformity
6 to the person from whom the assistive technology device was
7 purchased or leased.

8 (e) Complaints arising under this Section concerning
9 nonconforming assistive technology devices may be filed with
10 the Office of the Attorney General. The Attorney General shall:
11 (1) designate an Assistant Attorney General from the Attorney
12 General's Consumer Fraud Bureau to handle all complaints; and
13 (2) establish a toll-free telephone number and website that
14 consumers may utilize to file complaints.

15 A violation of the provisions of this Section by an
16 assistive technology device dealer, an assistive technology
17 device lessor, or a manufacturer is an unlawful practice under
18 Section 2Z of the Consumer Fraud and Deceptive Business
19 Practices Act. All remedies, penalties, and authority granted
20 to the Attorney General by that Act shall be available to the
21 Attorney General for the enforcement of this Section. In any
22 action brought by the Attorney General to enforce this Act, the
23 court may, in addition to other remedies available under this
24 Section, order that persons who incurred actual damages be
25 awarded the amount at which actual damages are assessed.

26 (Source: P.A. 94-378, eff. 1-1-06.)

1 Section 10. The Consumer Fraud and Deceptive Business
2 Practices Act is amended by changing Section 2Z as follows:

3 (815 ILCS 505/2Z) (from Ch. 121 1/2, par. 262Z)

4 Sec. 2Z. Violations of other Acts. Any person who knowingly
5 violates the Automotive Repair Act, the Automotive Collision
6 Repair Act, the Home Repair and Remodeling Act, the Dance
7 Studio Act, the Physical Fitness Services Act, the Hearing
8 Instrument Consumer Protection Act, the Illinois Union Label
9 Act, the Job Referral and Job Listing Services Consumer
10 Protection Act, the Travel Promotion Consumer Protection Act,
11 the Credit Services Organizations Act, the Automatic Telephone
12 Dialers Act, the Pay-Per-Call Services Consumer Protection
13 Act, the Telephone Solicitations Act, the Illinois Funeral or
14 Burial Funds Act, the Cemetery Oversight Act, the Cemetery Care
15 Act, the Safe and Hygienic Bed Act, the Pre-Need Cemetery Sales
16 Act, the High Risk Home Loan Act, the Payday Loan Reform Act,
17 the Mortgage Rescue Fraud Act, subsection (a) or (b) of Section
18 3-10 of the Cigarette Tax Act, subsection (a) or (b) of Section
19 3-10 of the Cigarette Use Tax Act, the Electronic Mail Act, the
20 Internet Caller Identification Act, paragraph (6) of
21 subsection (k) of Section 6-305 of the Illinois Vehicle Code,
22 Section 11-1431, 18d-115, 18d-120, 18d-125, 18d-135, 18d-150,
23 or 18d-153 of the Illinois Vehicle Code, Article 3 of the
24 Residential Real Property Disclosure Act, the Automatic

1 Contract Renewal Act, Section 15 of the Assistive Technology
2 Warranty Act, or the Personal Information Protection Act
3 commits an unlawful practice within the meaning of this Act.
4 (Source: P.A. 96-863, eff. 1-19-10; 96-1369, eff. 1-1-11;
5 96-1376, eff. 7-29-10; 97-333, eff. 8-12-11.)