



Rep. Barbara Flynn Currie

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1 AMENDMENT TO SENATE BILL 1099

2 AMENDMENT NO. _____. Amend Senate Bill 1099 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Consumer Fraud and Deceptive Business
5 Practices Act is amended by adding Section 2RRR as follows:

6 (815 ILCS 505/2RRR new)

7 Sec. 2RRR. Unfair or deceptive copyright infringement
8 demand letters.

9 (a) As used in this Section:

10 "Affiliated person" means a person affiliated with the
11 intended recipient of a written or electronic communication.

12 "Intended recipient" means a person who receives a written
13 communication alleging that he or she engaged in conduct that
14 allegedly violates the copyright protection available to
15 another person.

16 (b) It is an unlawful practice under this Act for a person,

1 in connection with the assertion of a United States copyright,
2 to send or cause any person to send any written, including
3 electronic, communication that states that the intended
4 recipient or any affiliated person is infringing or has
5 infringed a copyright and bears liability or owes compensation
6 to another person, if:

7 (1) the communication falsely threatens that
8 administrative or judicial relief will be sought if
9 compensation is not paid or the infringement issue is not
10 otherwise resolved;

11 (2) the communication falsely states that litigation
12 has been filed against the intended recipient or any
13 affiliated person;

14 (3) the assertions contained in the communication lack
15 a reasonable basis in fact or law because:

16 (A) the person asserting the copyright is not a
17 person, or does not represent a person, with the
18 current right to license the copyright to or enforce
19 the copyright against the intended recipient or any
20 affiliated person;

21 (B) the communication seeks compensation on
22 account of activities undertaken after the copyright
23 has expired;

24 (C) the conduct at issue does not infringe one of
25 the protected rights of a copyright holder;

26 (D) the alleged infringement at issue has been

1 previously ruled by a court to fall within a fair use
2 exemption; or

3 (E) the alleged infringement at issue is
4 permissible under any applicable End User License
5 Agreement.

6 (4) the content of the communication fails to include
7 information necessary to inform an intended recipient or
8 any affiliated person about the copyright assertion by
9 failing to include the following:

10 (A) the identity of the person asserting a right to
11 license the copyright to or enforce the copyright
12 against the intended recipient or any affiliated
13 person;

14 (B) any registration that was filed with the United
15 States Copyright Office;

16 (C) the factual allegations concerning the
17 specific areas in which the intended recipient's or
18 affiliated person's actions infringed the copyright or
19 are covered by the claims in the copyright;

20 (D) the content of the communication fails to
21 clearly state in bold font that no court has yet made a
22 determination that the intended recipient has
23 infringed or is liable in any way for payment of
24 damages; and

25 (E) any factual information necessary to conclude
26 that the work at issue is protected by copyright law.

1 (c) Nothing in this Section shall be construed to deem it
2 an unlawful practice for any person who owns or has the right
3 to license or enforce a copyright to:

4 (1) advise others of that ownership or right of license
5 or enforcement;

6 (2) communicate to others that the copyright is
7 available for license or sale;

8 (3) notify another of the infringement of the
9 copyright; or

10 (4) seek compensation on account of past or present
11 infringement or for a license to the copyright.

12 (d) Nothing in this Section shall be construed to apply to
13 take-down notices from copyright owners to service providers
14 under the Digital Millenium Copyright Act, 17 U.S.C. 512.

15 Section 99. Effective date. This Act takes effect January
16 1, 2015."