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Recent Legislative Activity

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RECENT LEGISLATIVE ACTIVITY

by Andre Brady

Mayoral election rules changed

Springfield, Illinois. The General Assembly amended the rules for electing the Mayor of Chicago. Voters will now elect the mayor in a nonpartisan primary election. In the past, both the Republican and Democratic Parties held primary elections from which the highest vote getter of each party would later run in a General Election. Additionally, a candidate could run as an independent in the General Election. Now, the candidate who receives the majority of the votes in the consolidated primary election shall be declared mayor. If there is no majority vote getter among the candidates in the consolidated primary election, the two highest vote getters will have a run-off election to determine the mayor. **65 ILCS 20/21-5.**

Amended Collection Agency Act

Springfield, Illinois. The General Assembly amended the Collection Agency Act. The amendments toughen the laws on collection agencies in Illinois. The amendments more clearly affirm the state's policy to protect consumers against abusive debt collectors. First, this legislation raises registration cost on collection agencies. The fee was \$75.00; now it is \$750.00. Second, it is now harder for collection agencies to refer debtors to attorneys for legal action. Specifically, the legislation requires the creditors to approve a decision by a collection agency to refer a debtor to an attorney for action. Third, the legislation imposes a five-year statute of limitations on actions against collection agencies.

Conversely, this legislation allows collection agencies to recover court cost and filing fees from

debtors if the debtor pays the debt before a judgment in the case. In addition, if a client of a collection agency fails to pay a bill within 60 days, the collection agency may deduct that amount from the client's collected debt.

This legislation broadens the Department of Professional Responsibility's enforcement power against deviant collection agencies. The department may now refuse to issue, renew, revoke, or suspend a collection agency's license for "engaging in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud or harm the public." **1995 IL S.B. 553.**

Bad checks can mean treble damages

Springfield, Illinois. A person now must pay a bad check issued to someone within 30 days after delivery of, or when they receive a written demand for payment. If a person fails to pay within 30 days they shall be liable to the payee for the amount of the bad check plus treble damages.

The amount shall not be less than \$100.00 nor more than \$500.00, plus attorney's fees and court costs. The payee must send the written demand for payment to the person's last known address via both certified mail and by first class mail. **720 ILCS 5/17-1a.**

Broader solicitation laws

Springfield, Illinois. The General Assembly has broadened the law on crimes for soliciting children under 13 years-of-age. "Solicit" now includes communication with children via computer, telephone, or other electronic means (oral or written).

Under this law, a person 17 years-or-older is guilty of indecently soliciting a child if he or she solicits a child to do a sexual act. In addition, the solicitation must constitute aggravated criminal sexual assault, criminal sexual assault, aggravated criminal sexual assault, or criminal sexual abuse. **720 ILCS 5/11-6.**

Amended Deceptive Practices Act

Springfield, Illinois. The General Assembly has amended the Consumer Fraud and Deceptive Business Practices Act. Any person who suffers actual damage due to fraud or deception may bring an action against the perpetrator. The court may now award economic damages at its discretion, or any other appropriate relief.

The amendment, however, adds protection for automobile dealers. In order for the court to award punitive damages against automobile dealers, the dealer must have acted willfully or intentionally and with evil motive or reckless indifference to the rights of others. Additionally, the dealer must have caused public injury, a pattern of such behavior, or an effect on consumers and the public interest.

The plaintiff can prove public injury by showing:

- (1) Violation of a statute that has a public interest impact;
- (2) Repeated acts prior to the act involving the plaintiff; or
- (3) Potential for repetition of the acts.

815 ILCS 505/10a.

Sunshine in Litigation Act

Springfield, Illinois. A proposed Senate Bill would create the Sunshine in Litigation Act. The Act provides that information and documents filed in civil actions (including discovery and settlement agreements, whether or not the discovery or agreements are filed with the court) are presumed to be open to the public. Also, the Act provides that a court may limit access to records only if certain tests are met. However, even if access to records is limited, certain governmental officials and similarly situated litigants shall have access to the records. Further, the Act provides for appeal, enforcement, and modification of orders limiting access. The Act does not affect other laws restricting access to records. **1995 IL S.B. 986.**

Amended maternity benefits

Springfield, Illinois. The General Assembly has proposed amendments to the Illinois Insurance Code, Health Maintenance Organization Act, and Voluntary Health Services Plans Act. The amendment provides that health coverage under those Acts that provide maternity benefits must include a minimum of 48-hours of in-patient care following a vaginal delivery and a minimum of 96-hours of in-patient care following a caesarean section for a mother and her newly born child. The amendment also provides that if coverage for post-delivery care in the home is provided, in-patient care is not required unless a physician determines the in-patient care is medically necessary or unless the mother requests the in-patient care. **1995 IL S.B. 1221.**