



NEW YORKERS FOR RESPONSIBLE LENDING

CONSUMER CREDIT FAIRNESS ACT MODEL BILL SUMMARY

The bill strengthens pleading requirements in consumer credit actions.

Explanation: To ensure that unrepresented defendants in consumer credit actions have adequate information about the accounts on which they are being sued, to weed out false claims, and to aid the courts in resolving cases more efficiently, the bill requires that the complaint provide the name of the original creditor, the last four digits of the original account number, the date and amount of the last payment, a chain of title of the account, and a breakdown of the amount that the plaintiff seeks to collect. The bill also requires that a copy of the contract be attached to the complaint.

The bill reduces the statute of limitations for consumer credit actions.

Explanation: To protect low income New Yorkers from the unfair and excessive accumulation of interest and fees, and to encourage plaintiffs to file claims in a timely manner, the bill reduces the statute of limitations on consumer credit actions from six years to two years. The bill also bars debt collectors from collecting debts on which the statute of limitations has expired.

The bill adopts the additional notice requirement already in place in New York City throughout New York State.

Explanation: To increase the likelihood that defendants in consumer credit actions will receive notice that they have been sued, the New York City Civil Court already requires that an additional notice of a pending consumer credit action be mailed to the defendant by the clerk of the court. The bill adopts this simple and effective requirement statewide.

The bill ensures that unrepresented defendants in consumer credit actions do not unintentionally waive their jurisdictional defenses.

Explanation: The bill provides that defendants in certain consumer credit actions who raise improper service as a defense in their answer are able to preserve that defense for trial without having to file a separate motion to dismiss within 60 days.

The bill clarifies requirements for entering default judgments in consumer credit actions.

Explanation: To prevent the entry of default judgments on claims that have no merit, the bill provides that applications for default judgments in consumer credit actions shall include an affidavit from the original creditor, together with proof of assignment of the debt if the plaintiff is not the original creditor. The bill also provides that default judgment applications will be reviewed by a judge.

The bill strengthens requirements for the confirmation of arbitration awards.

Explanation: Many consumer credit agreements require that any disputes go to arbitration. The bill requires that when a petitioner seeks to confirm an arbitration award in New York courts, it must provide the court with a copy of the agreement to arbitrate and proof that the respondent received notice of the arbitration and the arbitration award.