
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1265

Session of
1983

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MICHLOVIC, BUNT, PETRONE, FATTAH, COLAFELLA, SEMMEL, NAHILL,
PHILLIPS, OLASZ, GRUPPO, TELEK, TRELLO AND WOZNIAK, JUNE 27,
1983

REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, JUNE 27, 1983

AN ACT

1 Providing for the financial responsibility of persons or
2 entities offering invention development services; and
3 providing a right of action against invention developers.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Short title.

7 This act shall be known and may be cited as the Invention
8 Development Services Act.

9 Section 2. Definitions.

10 The following words and phrases when used in this act shall
11 have the meanings given to them in this section unless the
12 context clearly indicates otherwise:

13 "Contract for invention development services." Any contract
14 by which an invention developer undertakes invention development
15 services for a customer.

16 "Customer." Any person, firm, corporation or other entity
17 that enters into a contract for invention development services

1 with an invention developer.

2 "Invention." Any discovery, process, machine, design,
3 formulation, product, concept, idea or any combination thereof.

4 "Invention developer." Any person, firm, partnership,
5 corporation and any agent, employee, officer, partner or
6 independent contractor thereof, who offers for consideration to
7 perform or performs for a customer any invention development
8 services. An invention developer shall not include any
9 department or agency of the Federal, State or local government,
10 or any nonprofit, charitable, scientific or educational
11 organization as described in section 170(b)(1)(a) of the
12 Internal Revenue Code of 1954.

13 "Invention development." The evaluation, perfection,
14 marketing, brokering or promotion of an invention by an
15 invention developer including, but not limited to, a patent
16 search, preparation or prosecution of a patent application and
17 any other act by an invention developer done for consideration
18 for the purpose of procuring, attempting to procure or assisting
19 in the procuring of, a licensee, buyer or patent for an
20 invention. Invention development does not include those acts,
21 other than the marketing and promotion of an invention,
22 undertaken by attorneys in the practice of their profession, by
23 persons duly registered by the United States Patent and
24 Trademark Office in practice before that office or by persons
25 rendering services to those attorneys or registered persons.

26 "Invention development services." Any acts of invention
27 development required or promised to be performed, or actually
28 performed, or both, by an invention developer for a customer.

29 Section 3. Bonds.

30 Every invention developer rendering or offering to render

1 invention development services in this Commonwealth for
2 consideration shall maintain a bond issued by a surety company
3 admitted to do business in this Commonwealth. The principal sum
4 of the bond shall be 5% of the invention developer's gross
5 income from the invention development business in this
6 Commonwealth during the invention developer's last fiscal year,
7 except that the principal sum of the bond shall not be less than
8 \$25,000 in any year of operation. A copy of the bond shall be
9 filed with the Secretary of the Commonwealth prior to the time
10 the invention developer first commences business in this
11 Commonwealth. The invention developer shall have 90 days after
12 the end of each fiscal year within which to change the bond as
13 may be necessary to conform to the requirements of this section.
14 Section 4. Cash in lieu of bond.

15 In lieu of furnishing the bond required by section 3, the
16 invention developer may deposit with the Secretary of the
17 Commonwealth a cash deposit in the like amount. This cash
18 deposit may be satisfied by any of the following:

19 (1) Certificates of deposit payable to the Secretary of
20 the Commonwealth issued by banks doing business in this
21 Commonwealth and insured by the Federal Deposit Insurance
22 Corporation.

23 (2) Investment certificates of share accounts assigned
24 to the Secretary of the Commonwealth and issued by a savings
25 and loan association doing business in this Commonwealth and
26 insured by the Federal Savings and Loan Insurance
27 Corporation.

28 (3) Bearer bonds issued by the Federal Government or by
29 this Commonwealth.

30 (4) Cash deposited with the Secretary of the

1 Commonwealth.

2 Section 5. Coverage of bond.

3 The bond required by section 3 shall be in favor of the
4 Commonwealth of Pennsylvania for the benefit of any person who,
5 after entering into a contract for invention development
6 services with an invention developer, is injured in a manner set
7 forth in section 6. Any person claiming against the bond, or
8 against the cash deposited in lieu of bond, may maintain an
9 action at law against the invention developer and the surety.
10 The aggregate liability of the surety to all persons for all
11 breaches of conditions of the bond provided herein shall in no
12 event exceed the amount of the bond.

13 Section 6. Private actions.

14 (a) Permissible actions.--Any person who has been injured by
15 any unfair or deceptive acts or practices of an invention
16 developer, or by any false or fraudulent statement,
17 representation, or omission of material fact by an invention
18 developer, or by failure of an invention developer to provide
19 services as required by the terms of a contract for invention
20 development services, may bring a private action in the court of
21 common pleas of the county or judicial district in which the
22 defendant resides or has his principal place of business or is
23 doing business or in which the transaction took place or where
24 the customer resides, to recover actual damages or \$1,000,
25 whichever is greater, plus costs of court and reasonable
26 attorney fees.

27 (b) Rebuttable presumption.--For the purpose of this
28 section, execution by the customer of a contract for invention
29 development services in reliance on any false or fraudulent
30 statements, representations or material omissions shall

1 establish a rebuttable presumption of injury.

2 Section 7. Other rights and remedies preserved.

3 Nothing in this act shall be construed to abridge, limit or
4 affect any obligations, rights or remedies that might otherwise
5 be applicable or available under the law of this Commonwealth.

6 Section 8. Applicability.

7 This act shall not apply to any contracts entered into prior
8 to the effective date of this act.

9 Section 9. Effective date.

10 This act shall take effect in 60 days.