

By: Miller of Comal

H.B. No. 1595

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of and disclosures regarding consumer lawsuit lending transactions.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 30, Civil Practice and Remedies Code, is amended by adding Section 30.022 to read as follows:

Sec. 30.022. DISCLOSURE OF CONSUMER LAWSUIT LENDING TRANSACTION. (a) In this section, "consumer lawsuit lender" and "consumer lawsuit lending transaction" have the meanings assigned by Section 301.003, Finance Code.

(b) In any civil action with respect to which money has been or will be provided to or on behalf of a plaintiff by a consumer lawsuit lender in a consumer lawsuit lending transaction:

(1) the plaintiff must produce to the opposing party, without awaiting a discovery request, all documents that the plaintiff or the plaintiff's representative provided to the consumer lawsuit lender; and

(2) the plaintiff must file with the court and serve on the opposing party a copy of any agreement between the plaintiff and a consumer lawsuit lender.

(c) If the consumer lawsuit lending agreement is executed before the plaintiff's original petition is served, the agreement shall be:

(1) filed with the court:

1           (A) promptly on execution of the agreement; or

2           (B) together with the filing of the plaintiff's  
3 original petition, if the plaintiff's original petition has not  
4 been filed with the court at the time of the agreement's execution;  
5 and

6           (2) served with the plaintiff's original petition as  
7 provided by the Texas Rules of Civil Procedure.

8           (d) If the consumer lawsuit lending agreement is executed  
9 after the plaintiff's original petition is served, the agreement  
10 shall be filed with the court and served on the opposing party as  
11 provided by the Texas Rules of Civil Procedure not later than the  
12 10th day after the date the agreement is executed.

13           SECTION 2. Subchapter D, Chapter 154, Civil Practice and  
14 Remedies Code, is amended by adding Section 154.074 to read as  
15 follows:

16           Sec. 154.074. DISCLOSURE OF CONSUMER LAWSUIT LENDING  
17 TRANSACTION. (a) In this section, "consumer lawsuit lender" and  
18 "consumer lawsuit lending transaction" have the meanings assigned  
19 by Section 301.003, Finance Code.

20           (b) In any dispute with respect to which money has been or  
21 will be provided to or on behalf of a complaining party by a  
22 consumer lawsuit lender in a consumer lawsuit lending transaction,  
23 the complaining party must produce to the opposing party, without  
24 awaiting a request in the nature of a discovery request, all  
25 documents that the complaining party or the complaining party's  
26 representative provided to the consumer lawsuit lender.

27           SECTION 3. Chapter 301, Finance Code, is amended by adding

1 Section 301.003 to read as follows:

2 Sec. 301.003. CONSUMER LAWSUIT LENDING TRANSACTION. (a) In  
3 this subtitle, the following definitions apply in the context of a  
4 consumer lawsuit lending transaction:

5 (1) "Consumer" means an individual who is or may  
6 become a complaining party in a dispute and to whom or on behalf of  
7 whom money is provided in a consumer lawsuit lending transaction.

8 (2) "Consumer lawsuit lender" means a person who  
9 provides money to or on behalf of a consumer in a consumer lawsuit  
10 lending transaction. The term does not include an attorney who, at  
11 the time money is provided to or on behalf of a consumer in a  
12 consumer lawsuit lending transaction, has an attorney-client  
13 relationship with the consumer concerning the consumer's dispute.

14 (3) "Consumer lawsuit lending transaction" means a  
15 transaction in which:

16 (A) money is provided to or on behalf of a  
17 consumer by a consumer lawsuit lender for a purpose other than  
18 prosecuting the consumer's dispute; and

19 (B) the repayment of the money is conditioned on  
20 and to be received from the consumer's proceeds of the dispute,  
21 whether the proceeds are by judgment, settlement, or otherwise.

22 (4) "Creditor" includes a consumer lawsuit lender.

23 (5) "Dispute" includes:

24 (A) a civil action;

25 (B) an alternative dispute resolution  
26 proceeding; or

27 (C) an administrative proceeding before an

1 agency of this state.

2 (6) "Interest" includes the amounts payable in a  
3 consumer lawsuit lending transaction to the consumer lawsuit lender  
4 to the extent that those amounts in the aggregate exceed the amounts  
5 provided by the consumer lawsuit lender to or on behalf of the  
6 consumer in the transaction.

7 (7) "Loan" includes the provision of money to or on  
8 behalf of the consumer in a consumer lawsuit lending transaction,  
9 without regard to whether there is a circumstance under which the  
10 consumer does not have an obligation to repay to the consumer  
11 lawsuit lender the principal amount provided.

12 (8) "Obligor" includes the consumer in a consumer  
13 lawsuit lending transaction.

14 (b) A consumer lawsuit lending transaction and the parties  
15 to the transaction are subject to this subtitle, including Section  
16 303.201, in the same manner as a loan for personal, family, or  
17 household use and the parties to such a loan.

18 SECTION 4. Subchapter A, Chapter 342, Finance Code, is  
19 amended by adding Section 342.0015 to read as follows:

20 Sec. 342.0015. DEFINITION OF CONSUMER LAWSUIT LENDING  
21 TRANSACTION AND RELATED TERMS. In this chapter, in the context of a  
22 consumer lawsuit lending transaction, "consumer," "consumer  
23 lawsuit lender," "consumer lawsuit lending transaction,"  
24 "creditor," "dispute," "interest," "loan," and "obligor" have the  
25 meanings assigned by Section 301.003.

26 SECTION 5. Section 342.005, Finance Code, is amended to  
27 read as follows:

1           Sec. 342.005. APPLICABILITY OF CHAPTER. (a) Except as  
2 provided by Sections 302.001(d) and 342.004(c), a loan is subject  
3 to this chapter if the loan:

4           (1) provides for interest in excess of 10 percent a  
5 year;

6           (2) is extended primarily for personal, family, or  
7 household use;

8           (3) is made by a person engaged in the business of  
9 making, arranging, or negotiating those types of loans; and

10          (4) either:

11           (A) is not secured by a lien on real property; or

12           (B) is described by Section 342.001(4), 342.301,  
13 or 342.456 and is predominantly payable in monthly installments.

14          (b) The amounts provided by the consumer lawsuit lender to  
15 or on behalf of the consumer in a consumer lawsuit lending  
16 transaction are considered to be amounts extended primarily for  
17 personal, family, or household use. A consumer lawsuit lending  
18 transaction is subject to this chapter if the amounts payable under  
19 the transaction to the consumer lawsuit lender in the aggregate  
20 exceed the amounts provided by the consumer lawsuit lender to or on  
21 behalf of the consumer by an amount that, when aggregated and  
22 amortized using the actuarial method during the term of the loan,  
23 provides for interest in excess of 10 percent a year.

24          SECTION 6. Section 342.051(a), Finance Code, is amended to  
25 read as follows:

26          (a) A person must hold a license issued under this chapter  
27 to:

1           (1) engage in the business of making, transacting, or  
2 negotiating loans subject to this chapter; [~~or~~]

3           (2) contract for, charge, or receive, directly or  
4 indirectly, in connection with a loan subject to this chapter, a  
5 charge, including interest, compensation, consideration, or  
6 another expense, authorized under this chapter that in the  
7 aggregate exceeds the charges authorized under other law; or

8           (3) engage in a consumer lawsuit lending transaction  
9 subject to this chapter or Subtitle A.

10           SECTION 7. (a) Except as otherwise provided by this  
11 section, the changes in law made by this Act apply to and in  
12 connection with a consumer lawsuit lending transaction entered into  
13 on or after the effective date of this Act. A consumer lawsuit  
14 lending transaction entered into before the effective date of this  
15 Act is governed by the law in effect when the transaction was  
16 entered into, and the former law is continued in effect for that  
17 purpose.

18           (b) Section 30.022, Civil Practice and Remedies Code, as  
19 added by this Act, applies only to an action commenced on or after  
20 the effective date of this Act.

21           (c) Section 154.074, Civil Practice and Remedies Code, as  
22 added by this Act, applies only to a dispute resolution proceeding  
23 commenced on or after the effective date of this Act.

24           (d) The licensing requirement of Section 342.051(a),  
25 Finance Code, as amended by this Act, applies only in relation to a  
26 consumer lawsuit lending transaction entered into on or after  
27 January 1, 2014. A consumer lawsuit lending transaction entered

1 into before January 1, 2014, is governed by the law in effect when  
2 the transaction was entered into, and the former law is continued in  
3 effect for that purpose.

4 SECTION 8. This Act takes effect September 1, 2013.