
The original instrument was prepared by Julie J. Baxter. The following digest, which does not constitute a part of the legislative instrument, was prepared by Michelle Broussard-Johnson.

DIGEST

Claitor (SB 166)

Present law provides for the Louisiana Consumer Credit Law.

Present law provides for exclusions to and licensing requirements under the La. Consumer Credit Law.

Proposed law excludes consumer lawsuit loans as defined in proposed law from the La. Consumer Credit Law and provides that any person who only makes such consumer credit loans is exempted from licensure under the La. Consumer Credit Law, unless such loans are made by a FDIC insured institution subject to proposed law.

Proposed law provides for the Consumer Lending Information & Protection Act – Litigation Lending (act).

Proposed law applies to all consumer lawsuit loans that are entered into with a consumer in exchange for an interest in proceeds of the consumer's claim or legal action.

Proposed law provides an exemption from proposed law for a FDIC insured institution that is subject to the La. Consumer Credit Law.

Proposed law provides that nothing in the act shall be deemed to regulate an attorney client relationship or any other matter regulated by the Louisiana Supreme Court.

Proposed law further provides that nothing in the act shall be deemed to affect an attorney lien or privilege arising under Louisiana law.

Proposed law provides for certain legislative findings and definitions.

Proposed law provides that the maximum loan finance charge for any consumer lawsuit loan transaction that may be charged, contracted for or received by a consumer lawsuit loan company may equal but not exceed:

- (1) 35% per year for that portion of the unpaid principal amount of the loan not exceeding \$1,400.
- (2) 27% per year for that portion of the unpaid principal amount of the loan exceeding \$1,400 and not exceeding \$4,000.

- (3) 24% per year for that portion of the unpaid principal amount of the loan exceeding \$4,000 and not exceeding \$7,000.
- (4) 21% per year for that portion of the unpaid principal amount of the loan exceeding \$7,000.

Proposed law provides that a lender may charge an origination fee that does not exceed \$50 on a consumer lawsuit loan. Further provides that the origination fee may be charged only once in connection with a single consumer lawsuit loan to one borrower over any consecutive 60-day period. Proposed law provides that, when a consumer lawsuit loan is paid in full, an origination fee may be charged on any subsequent new consumer lawsuit loan without regard to the prior loan's consecutive 60-day period.

Proposed law provides that, except for reasonable attorney fees and costs awarded by a court, no other fees or charges may be assessed or collected on a consumer lawsuit loan.

Proposed law provides that each consumer lawsuit loan contract must be in writing, dated, signed by the consumer, and must include:

- (1) A statement in bold-typed print of not less than 14-point font, in immediate proximity to the space reserved for the signature of the consumer, as follows:

"You may cancel this contract at any time before midnight of the fifteenth day after the date of the transaction. See the attached notice of cancellation form for an explanation of this right."
- (2) The terms and conditions of payment, including the total of all payments to be made by the consumer, and annualized rate of interest.
- (3) The address of the lawsuit lender's principal place of business and the name and address of its agent in the state authorized to receive service of process.

Proposed law provides that a consumer lawsuit loan contract must have attached two easily detachable copies of a notice of cancellation. Further provides that the notice must be in boldfaced type and in the following form:

"Notice of Cancellation

You may cancel this contract, without any penalty or obligation, within fifteen days after the date the contract is signed. To cancel this contract, send by mail, or deliver in person, a signed dated copy of this cancellation notice, or other written notice to:
(Name of consumer lawsuit loan company) at (address) (place of business) not later than midnight (date).

I hereby cancel this transaction.

(Date)

(Consumer's Signature)"

Proposed law provides that the consumer lawsuit loan company shall give to the consumer a copy of the completed contract and all other documents the lender requires the consumer to sign at the time they are signed.

Proposed law provides that no consumer lawsuit loan contract with a consumer of this state shall contain any condition, stipulation, or agreement:

- (1) Requiring it to be construed according to the laws of any other state or country.
- (2) Depriving the courts of this state of the jurisdiction of action against the consumer lawsuit loan company.
- (3) Stipulating to the venue of any particular court of this state.

Proposed law provides that any such condition, stipulation, or agreement in violation of proposed law shall be void, but such voiding shall not affect the validity of the other provisions of the contract.

Proposed law provides that all consumer lawsuit loan transactions shall comply with federal Regulation Z of the Board of Governors of the Federal Reserve System. Failure to comply with Regulation Z is a violation of the proposed law.

Proposed law provides that all consumer lawsuit loan transactions shall accurately reflect the actual terms, conditions, applicable amount of fees, and repayment schedule agreed to by the parties. Further provides that, if a loan is to be repaid on demand, in a lump sum, or at undefined intervals of time, interest on the loan shall be computed by the actuarial or simple interest method when allocating payments made on the loan.

Proposed law provides that a consumer lawsuit loan company shall not attempt to cause a consumer to waive a right under proposed law. Further provides that a waiver by a consumer of any part of proposed law is void.

Proposed law provides that a consumer lawsuit loan company or a salesperson, agent, or a representative of a consumer lawsuit loan company shall not enter into a consumer lawsuit loan transaction with a consumer unless the funds extended to the consumer pursuant to the terms of the consumer lawsuit loan transaction are used for that consumer's personal living expenses.

Proposed law provides that a consumer lawsuit loan company shall not directly or indirectly instigate or encourage litigation, by engaging in referring consumers that have entered into a consumer lawsuit loan transaction with that consumer lawsuit loan company, or directly or indirectly control or participate in the conduct of the legal action that is related to a consumer

lawsuit loan transaction.

Proposed law further provides that a violation of any provision of proposed law shall constitute an unfair or deceptive act or practice for purposes of the Unfair Trade and Consumer Protection Law.

Proposed law further provides that the remedies and rights provided under proposed law are in addition to and do not preclude any remedy otherwise available under law to a consumer claiming relief under any provision of law.

Proposed law provides that the provisions of proposed law shall not be subject to regulation or enforcement by the office of financial institutions.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Adds R.S. 9:3512(9), 3560(A)(10), and 3580.1 – 3580.9)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Commerce, Consumer Protection, and International Affairs to the original bill

1. Technical.
2. Excludes consumer lawsuit loans as defined in proposed law from the La. Consumer Credit Law.
3. Exempts a person who only makes consumer lawsuit loans as defined in proposed law from the licensure requirements of the La. Consumer Credit Law.
4. Provides that proposed law shall not be deemed to regulate an attorney client relationship or any other matter regulated by the La. Supreme Court.
5. Provides that nothing in proposed law shall be deemed to affect an attorney lien or privilege arising under La. law.
6. Excludes attorneys licensed in this state from the definition of consumer lawsuit loan company.
7. Provides that consumer lawsuit loans shall not be subject to the office of financial institutions' regulation.

Senate Floor Amendments to engrossed bill

1. Makes Legislative Bureau technical changes.
2. Provides an exemption from proposed law for a FDIC insured institution subject to the La. Consumer Credit Law.