
SENATE FLOOR AMENDMENTS

Amendments proposed by Senator Martiny to Engrossed Senate Bill No. 166 by Senator Claitor

1 AMENDMENT NO. 1

2 On page 1, line 4, change "3580.9," to "3580.11,"

3 AMENDMENT NO. 2

4 On page 1, line 7, after "certain" delete the remainder of the line

5 AMENDMENT NO. 3

6 On page 2, line 16, change "**limit**" to "**provide detailed disclosures to**"

7 AMENDMENT NO. 4

8 On page 2, line 18, change "**limits**" to "**detailed disclosures**"

9 AMENDMENT NO. 5

10 On page 3, delete lines 2 and 3 and insert the following:

11 **"(1) "Consumer" means any individual with a pending legal claim or action who**
12 **resides or is domiciled in this state or whose pending legal claim or action is in**
13 **this state."**

14 AMENDMENT NO. 6

15 On page 3, line 13, after "**lawsuit loans**" insert "**in this state**"

16 AMENDMENT NO. 7

17 Delete page 4 in its entirety and on page 5, delete lines 1 through 23 and insert the following:

18 **"§3580.5. Required contract provisions; disclosure; rates and fees;**
19 **prohibitions**

20 **A. All consumer lawsuit loans shall meet all of the following**
21 **requirements:**

22 **(1) The contract shall be completely filled in when presented to the**
23 **consumer for signature.**

24 **(2) The contract shall contain, in bold and boxed-type, a right of**
25 **rescission, allowing the consumer to cancel the contract without penalty or**
26 **further obligation if, within five business days after the funding date, the**
27 **consumer does either of the following:**

28 **(a) Returns to the consumer litigation loan company the full amount of**
29 **the disbursed funds by delivering the company's uncashed check to the**
30 **company's office in person.**

31 **(b) Mails, by insured, certified, or registered mail, to the address**
32 **specified in the contract, a notice of cancellation and includes in such mailing**
33 **a return of the full amount of disbursed funds in the form of the company's**
34 **uncashed check or a registered or certified check or money order.**

35 **(3) The contract shall contain the initials of the consumer on each page**
36 **including all schedules and attachments.**

37 **B. The contract shall contain a signed written acknowledgment by the**
38 **consumer's attorney retained in the legal claim stating all of the following:**

1 (1) That to the best of the attorney's knowledge, all the costs and charges
2 relating to the consumer lawsuit loans have been disclosed to the consumer.

3 (2) That the attorney is being paid on a contingency basis pursuant to
4 a written fee agreement.

5 (3) That all proceeds of the legal claim shall be disbursed via either the
6 trust account of the attorney or a settlement fund established to receive the
7 proceeds of the legal claim on behalf of the consumer.

8 (4) That the attorney is following the written instructions of the
9 consumer with regard to the consumer lawsuit loan.

10 (5) That the attorney has not received a referral fee or other
11 consideration from the consumer lawsuit loan company in connection with the
12 consumer lawsuit loan, nor will the attorney receive such fee or other
13 consideration in the future.

14 C. If the acknowledgment provided in Subsection B of this Section is not
15 completed and signed by the attorney retained by the consumer in the legal
16 claim, the contract shall be null and void.

17 D. A consumer lawsuit loan contract and attorney acknowledgment
18 confected in accordance with the provisions of this Chapter shall not thereafter
19 be deemed null and void solely because legal representation of the consumer
20 changes after confection of such contract and acknowledgment.

21 AMENDMENT NO. 8

22 On page 5, line 24, change "D.(1)" to "E.(1)"

23 AMENDMENT NO. 9

24 On page 6, line 5, change "E." to "F."

25 AMENDMENT NO. 10

26 On page 6, line 8, change "F." to "G."

27 AMENDMENT NO. 11

28 On page 6, after line 29, insert the following:

29 "(3) Pay or offer to pay commissions, referral fees, or other forms of
30 consideration to any attorney, law firm, medical provider, chiropractor, or
31 physical therapist, or any of their employees for referring a consumer to the
32 consumer lawsuit loan company.

33 (4) Accept any commissions, referral fees, rebates, or other forms of
34 consideration from an attorney, law firm, medical provider, chiropractor, or
35 physical therapist, or any of their employees.

36 (5) Intentionally advertise materially false or misleading information
37 regarding its products or services.

38 (6) Refer, in furtherance of an initial legal funding, a consumer or
39 potential consumer to a specific attorney, law firm, medical provider,
40 chiropractor, or physical therapist, or any of their employees. However, if a
41 consumer needs legal representation, the company may refer the consumer to
42 a local or state bar association referral service.

43 (7) Fail to promptly supply a copy of the executed consumer lawsuit loan
44 contract to the attorney for the consumer.

45 (8) Knowingly provide funding to a consumer who has previously
46 assigned or sold a portion of the consumer's rights to proceeds from his legal
47 claim without first making payments to or purchasing a prior unsatisfied
48 consumer lawsuit loan company's entire funded amount and contracted
49 charges, unless a lesser amount is otherwise agreed to in writing by the
50 consumer lawsuit loan company, except that multiple companies may agree to
51 contemporaneously provide funding to a consumer provided that the consumer
52 and the consumer's attorney consent to the arrangement in writing.

1 (9) Receive any right to or make any decisions with respect to the
 2 conduct of the underlying legal claim or any settlement or resolution of such
 3 legal claim. The right to make such decisions shall remain solely with the
 4 consumer and his attorney in the legal claim.

5 (10) Knowingly pay or offer to pay for court costs, filing fees, or
 6 attorney fees either during or after the resolution of the legal claim using funds
 7 from the consumer lawsuit loan transaction.

8 §3580.9. Contracted amounts

9 The contracted amount to be paid to the consumer lawsuit loan company
 10 by the consumer shall be a predetermined amount based upon intervals of time
 11 from the funding date through the resolution date. It shall not be based on a
 12 percentage of the recovery from the legal claim.

13 §3580.10. Disclosures

14 All consumer lawsuit loan contracts shall contain the disclosures
 15 specified in this Section and such disclosures constitute material terms of the
 16 contract. Unless otherwise specified, the disclosures shall be typed in at least
 17 twelve point boldfaced typed font and be placed clearly and conspicuously
 18 within the contract, as follows:

19 (1) On the front page under appropriate headings, language specifying
 20 all of the following:

21 (a) The funded amount to be paid to the consumer by the consumer
 22 lawsuit loan company.

23 (b) An itemization of one time charges.

24 (c) The total amount to be assigned by the consumer to the consumer
 25 lawsuit company, including the funded amount and all charges.

26 (d) A payment schedule conspicuously displayed and acknowledged by
 27 the consumer to include the funded amount and charges, listing all dates and
 28 the amount due at the end of each one hundred and eighty day period from the
 29 funding date, until the maximum amount due to the consumer lawsuit loan
 30 company by the consumer to satisfy the amount due pursuant to the contract.

31 (2) Within the body of the contract, language specifying the following:

32 "Consumer's Right to Cancellation

33 You may cancel this contract without penalty or further obligation
 34 within five business days after the funding date if you either:

35 (a) Return to the consumer lawsuit loan company the full amount of the
 36 disbursed funds by delivering the company's uncashed checks to the company's
 37 office in person.

38 (b) Mail, by insured, certified, or registered mail, to the consumer
 39 lawsuit loan company at the address specified in the contract, a notice of
 40 cancellation and include in such mailing a return of the full amount of
 41 disbursed funds in the form of the company's uncashed check or a registered or
 42 certified check or money order."

43 (3) The consumer lawsuit loan company shall have no role in deciding
 44 whether, when, or how much the legal claim is settled for; however, the
 45 consumer and his attorney shall notify the company of the outcome of the legal
 46 claim by settlement or adjudication prior to the resolution date. The company
 47 may seek updated information about the status of the legal claim, but in no
 48 event shall the company interfere with the independent professional judgment
 49 of the attorney in the handling of the legal claim or any settlement of such claim.

50 (4) Within the body of the contract, in all capital letters in at least
 51 fourteen point boldfaced font contained within a box: "THE FUNDED
 52 AMOUNT AND AGREED UPON CHARGES SHALL BE PAID ONLY FROM
 53 THE PROCEEDS OF YOUR LEGAL CLAIM, AND SHALL BE PAID ONLY
 54 TO THE EXTENT THAT THERE ARE AVAILABLE PROCEEDS FROM
 55 YOUR LEGAL CLAIM. YOU WILL NOT OWE [INSERT NAME OF THE
 56 CONSUMER LAWSUIT LOAN COMPANY] ANYTHING IF THERE ARE
 57 NO PROCEEDS FROM YOUR LEGAL CLAIM, UNLESS YOU OR YOUR
 58 ATTORNEY HAVE VIOLATED ANY MATERIAL TERM OF THIS

1 **CONTRACT OR YOU HAVE COMMITTED FRAUD AGAINST THE**
2 **CONSUMER LAWSUIT LOAN COMPANY."**

3 **(5) Located immediately above the place on the consumer lawsuit loan**
4 **contract where the consumer's signature is required, conspicuously displayed**
5 **and in fourteen point font: "Do not sign this contract before you read it**
6 **completely or if it contains any blank spaces. You are entitled to a completely**
7 **filled-in copy of the contract. Before you sign this contract, you should obtain**
8 **the advice of an attorney. Depending on the circumstances, you may want to**
9 **consult a tax professional, public or private benefits planning professional, or**
10 **financial professional. You acknowledge that your attorney in the legal claim**
11 **has provided no tax advice, public or private benefit planning advice, or**
12 **financial advice regarding this transaction."**

13 AMENDMENT NO. 12

14 On page 7, line 1, change "§3580.9" to "§3580.11"