



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB5502

Introduced 2/15/2012, by Rep. André M. Thapedi

SYNOPSIS AS INTRODUCED:

205 ILCS 670/21.5 new

815 ILCS 505/2E

815 ILCS 505/2K

from Ch. 121 1/2, par. 262E

from Ch. 121 1/2, par. 262K

Amends the Consumer Installment Loan Act. Defines "lawsuit lending". Provides that the Act shall apply to all lawsuit lending and all lawsuit lenders. Provides that, in any civil action in which a lawsuit lender provides lawsuit lending to a party: (i) the court shall award to the prevailing party all of its costs, expenses, and attorneys' fees, to be assessed against the losing party; (ii) the lawsuit lender shall post with the clerk of the court a bond in the face amount of 25% of the amount of damages claimed by any such party; and (iii) any and all documents that the lawsuit lender obtained from the party in connection with making any decision to begin lawsuit lending must be produced to the opposing party without awaiting a discovery request. Amends the Consumer Fraud and Deceptive Business Practices Act. Provides that a lawsuit lender shall be considered a person who is regularly engaged in the business of making loans to consumers for the purposes of provisions concerning repeated violations of certain Acts and advertisements containing certain terms. Effective immediately.

LRB097 19920 PJG 65210 b

1 AN ACT concerning financial regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Consumer Installment Loan Act is amended by
5 adding Section 21.5 as follows:

6 (205 ILCS 670/21.5 new)

7 Sec. 21.5. Lawsuit lending.

8 (a) As used in this Section:

9 "Lawsuit lending" means:

10 (i) providing to any individual person who is a party
11 to any civil action any money or its equivalent, with the
12 repayment of such money or its equivalent conditioned upon
13 and sourced from the person's proceeds of the civil action,
14 by judgment or settlement or otherwise; or

15 (ii) purchasing from any individual person who is a
16 party to any civil action, or receiving an assignment from
17 such person, a contingent right to receive a share of the
18 potential proceeds of such civil action, by judgment or
19 settlement or otherwise.

20 "Lawsuit lender" means any individual or other person that
21 engages in lawsuit lending.

22 (b) Except as otherwise provided in this Section:

23 (1) this Act shall apply to all lawsuit lending entered

1 into after the effective date of this amendatory Act of the
2 97th General Assembly and to all lawsuit lenders who
3 provide lawsuit lending after the effective date of this
4 amendatory Act of the 97th General Assembly;

5 (2) Section 17.2 of this Act shall not apply to any
6 lawsuit lending provided by a lawsuit lender; and

7 (3) when any lawsuit lending provided by a lawsuit
8 lender would otherwise constitute a "small consumer loan"
9 within the meaning of this Act, the annual percentage rate
10 on that lawsuit lending shall be the rate provided in
11 subsection (a) of Section 15 of this Act.

12 (c) In any civil action in which a lawsuit lender provides
13 lawsuit lending to a party, the court shall award to the
14 prevailing party all of its costs, expenses, and attorneys'
15 fees, to be assessed against the losing party.

16 If the losing party is the party that received lawsuit
17 lending, the lawsuit lender must itself pay the prevailing
18 party's costs, expenses, and attorneys' fees.

19 As used in this subsection, fees and costs do not include
20 the interest and any fees charged by a lawsuit lender to a
21 prevailing party.

22 (d) In any civil action in which a lawsuit lender provides
23 lawsuit lending to a party, the lawsuit lender shall post with
24 the clerk of the court a bond in the face amount of 25% of the
25 amount of damages claimed by such party. The bond may be
26 released at the conclusion of the civil action, including final

1 disposition of all appeals, but only after the lawsuit lender
2 has satisfied any order for costs, expenses, or attorneys' fees
3 issued by the court, as provided in subsection (c) of this
4 Section.

5 (e) In any civil action in which a lawsuit lender has
6 provided lawsuit lending to a party:

7 (1) any and all documents that the lawsuit lender
8 obtained from the party or the party's representative in
9 connection with making any decision to begin or continue
10 such lawsuit lending must be produced to the opposing party
11 without awaiting a discovery request; and

12 (2) any agreement between the lawsuit lender and the
13 party must be disclosed to the court and produced to the
14 opposing party.

15 Section 10. The Consumer Fraud and Deceptive Business
16 Practices Act is amended by changing Sections 2E and 2K as
17 follows:

18 (815 ILCS 505/2E) (from Ch. 121 1/2, par. 262E)

19 Sec. 2E. Any person who is regularly engaged in the
20 business of providing or furnishing merchandise to consumers or
21 in making loans to consumers and who has committed in any
22 calendar year 3 or more violations, as determined in any civil
23 or criminal proceeding, of the "Consumer Finance Act"; the
24 "Consumer Installment Loan Act"; the "Retail Installment Sales

1 Act"; the "Motor Vehicle Retail Installment Sales Act"; "An Act
2 to revise the law in relation to the rate of interest and to
3 repeal certain acts therein named", approved May 24, 1879, as
4 amended; "An Act to promote the welfare of wage-earners by
5 regulating the assignment of wages, and prescribing a penalty
6 for the violation thereof", approved July 1, 1935, as amended;
7 or Part 8 of Article XII of the Code of Civil Procedure, as
8 amended, or of any 2 or more of those Acts, is guilty of an
9 unlawful practice within the meaning of this Act. Nothing in
10 this Section prohibits the prosecution of a person under the
11 Acts specified herein as well as under this Act. A lawsuit
12 lender, as defined in Section 21.5 of the Consumer Installment
13 Loan Act, shall be considered a person who is regularly engaged
14 in the business of making loans to consumers for the purposes
15 of this Section.

16 (Source: P.A. 82-783.)

17 (815 ILCS 505/2K) (from Ch. 121 1/2, par. 262K)

18 Sec. 2K. No person engaged in the making of loans to
19 consumers or furnishing goods or services to consumers in a
20 credit transaction may advertise using the terms "bank rates",
21 "bank financing" or words of like import unless it is a bank,
22 banking association or trust company authorized to do business
23 under the laws of this State or of the United States. A person
24 who violates this Section commits an unlawful practice within
25 the meaning of this Act. A lawsuit lender, as defined in

1 Section 21.5 of the Consumer Installment Loan Act, shall be
2 considered a person engaged in the making of loans to consumers
3 for the purposes of this Section.

4 (Source: Laws 1967, p. 2143.)

5 Section 99. Effective date. This Act takes effect upon
6 becoming law.