

SUBJECT: Prohibiting usurious interest rates on lawsuit loans

COMMITTEE: Civil Practices — favorable, without amendment

VOTE: 6 ayes — Nixon, Rose, P. King, Madden, Strama, Talton
0 nays
3 absent — Martinez Fischer, Raymond, Woolley

WITNESSES: For — Henry D. Williams; Danae Young
Against — None

BACKGROUND: Finance Code, sec. 302.001 allows a lender to charge interest on a loan but prohibits a lender from charging usurious interest rates. The maximum annual interest rate allowed is 10 percent, unless otherwise provided by law. Finance Code, ch. 305 provides penalties for violation of sec. 302.001.

A “lawsuit loan” is a loan for which repayment is contingent upon the borrower’s recovery in a lawsuit.

DIGEST: HB 2987 would prohibit lenders from charging usurious rates, as defined by Finance Code, sec. 302.001, on lawsuit loans. A lender who violated this section would be subject to the penalties provided in Finance Code, ch. 305.

The bill would not apply to contracts between an attorney and client that provide for paying the attorney for services rendered.

The bill would take effect September 1, 2005, and would apply to any case in which a final judgment was signed or subject to appeal on or after that date.

SUPPORTERS SAY: Lenders who provide loans in anticipation of a legal victory are modern-day loan sharks. Such lenders typically research court records to determine cases they believe have a high probability of success and then contact the

plaintiffs in those cases with an offer to lend them money. The interest rates on these loans, however, are astronomically high as the interest is compounded monthly, rather than yearly, as is standard with most loans. Thus, in less than a year, a borrower frequently will owe more than twice the amount borrowed. In practice, this means that a borrower often receives no money from the proceeds of the lawsuit as all of the money is owed to the lender because of the high interest rates.

These lenders prey on the misfortune of people who have been injured. Because they need money immediately to cover their daily expenses, such people are much more likely to agree to outrageous interest rates than an average person would be. Texas should protect its citizens by outlawing usurious interest rates for lawsuit loans.

The bill would not outlaw the practice of providing these loans but simply would protect borrowers from unconscionable interest rates.

**OPPONENTS
SAY:**

Lawsuit loans provide a valuable service to injured plaintiffs who often are unable to work for long periods. These plaintiffs often are coerced into accepting much smaller settlements than they deserve simply because they cannot afford to wait for a larger offer. Lenders who provide these loans enable these plaintiffs to support themselves and their families while awaiting either trial or a fair settlement offer.

These lenders have no guarantee of receiving any payment for their loans because repayment is contingent upon the lender's success in a lawsuit. If the borrower does not prevail, then the lender receives no money at all in return for the loan. Providing these loans is a very high risk venture that justifies the charging of higher-than-normal interest rates.