

State of Arizona
Senate
Fifty-second Legislature
First Regular Session
2015

SENATE BILL 1403

AN ACT

AMENDING TITLE 44, CHAPTER 9, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 26;
RELATING TO CONSUMER LAWSUIT LOANS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 44, chapter 9, Arizona Revised Statutes, is amended
3 by adding article 26, to read:

4 ARTICLE 26. CONSUMER LAWSUIT LOANS

5 44-1382. Definitions

6 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

7 1. "CONSUMER" MEANS A NATURAL PERSON WHO EITHER RESIDES OR IS
8 DOMICILED IN THIS STATE OR WHO IS A PARTY TO A LEGAL ACTION PENDING BEFORE A
9 STATE OR FEDERAL COURT LOCATED IN THIS STATE.

10 2. "CONSUMER LAWSUIT LOAN" MEANS THE MONIES THAT A CONSUMER LAWSUIT
11 LOAN COMPANY IN A CONSUMER LAWSUIT LOAN TRANSACTION PROVIDES DIRECTLY OR
12 INDIRECTLY TO A CONSUMER.

13 3. "CONSUMER LAWSUIT LOAN COMPANY":

14 (a) MEANS A PERSON THAT ENTERS INTO A CONSUMER LAWSUIT LOAN
15 TRANSACTION WITH A CONSUMER.

16 (b) INCLUDES:

17 (i) AN AFFILIATE OR SUBSIDIARY OF A CONSUMER LAWSUIT LOAN COMPANY.

18 (ii) A PERSON WHO BUYS A WHOLE OR PARTIAL INTEREST IN A CONSUMER
19 LAWSUIT LOAN.

20 (iii) A PERSON WHO ACTS AS AN AGENT TO PROVIDE A CONSUMER LAWSUIT LOAN
21 FROM A THIRD PARTY FOR A FEE.

22 (iv) A PERSON WHO ACTS AS AN AGENT FOR A THIRD PARTY IN PROVIDING A
23 CONSUMER LAWSUIT LOAN FOR A FEE, REGARDLESS OF WHETHER APPROVAL OR ACCEPTANCE
24 BY THE THIRD PARTY IS NECESSARY TO CREATE A LEGAL OBLIGATION FOR THE THIRD
25 PARTY.

26 (v) ANY OTHER PERSON THAT IS DETERMINED BY THE ATTORNEY GENERAL TO BE
27 ENGAGED IN A TRANSACTION THAT IS SUBSTANTIVELY EITHER A DISGUISED CONSUMER
28 LAWSUIT LOAN OR A SUBTERFUGE FOR THE PURPOSE OF AVOIDING THIS ARTICLE.

29 (c) DOES NOT INCLUDE AN ATTORNEY WHO PROVIDES PROFESSIONAL SERVICES TO
30 THE CONSUMER ON A CONTINGENCY BASIS IN RELATION TO THE CONSUMER'S LEGAL
31 CLAIM.

32 4. "CONSUMER LAWSUIT LOAN CONTRACT" MEANS A WRITTEN OR ORAL AGREEMENT
33 BETWEEN A CONSUMER AND A CONSUMER LAWSUIT LOAN COMPANY PROVIDING FOR A
34 CONSUMER LAWSUIT LOAN TRANSACTION.

35 5. "CONSUMER LAWSUIT LOAN TRANSACTION" INCLUDES A TRANSACTION IN WHICH
36 BOTH OF THE FOLLOWING APPLY:

37 (a) A CONSUMER LAWSUIT LOAN COMPANY PROVIDES A CONSUMER LAWSUIT LOAN
38 TO A CONSUMER.

39 (b) THE CONSUMER ASSIGNS, CONVEYS OR OTHERWISE CONFERS TO THE CONSUMER
40 LAWSUIT LOAN COMPANY THE RIGHT TO RECEIVE THE PROCEEDS OR PART OF THE
41 PROCEEDS OF THE SETTLEMENT, INSURANCE PAYMENT OR AWARD OF DAMAGES OBTAINED IN
42 THE CONSUMER'S LEGAL ACTION.

43 6. "LEGAL ACTION":

44 (a) MEANS A BONA FIDE CIVIL ACTION, A STATUTORY OR REGULATORY CLAIM
45 FOR WHICH DAMAGES MAY BE AWARDED TO THE CLAIMING PARTY OR A CAUSE OF ACTION

1 OR LEGAL CLAIM ON WHICH A CIVIL ACTION OR A STATUTORY OR REGULATORY CLAIM MAY
2 BE BASED.

3 (b) INCLUDES:

4 (i) ANY SETTLEMENT OR NEGOTIATIONS TOWARD SETTLEMENT OF A CIVIL ACTION
5 OR REGULATORY PROCEEDING DESCRIBED IN SUBDIVISION (a) OF THIS PARAGRAPH.

6 (ii) ANY AGREEMENT OR NEGOTIATIONS TOWARD AN AGREEMENT UNDER WHICH A
7 CIVIL ACTION OR REGULATORY PROCEEDING BASED ON A CAUSE OF ACTION DESCRIBED IN
8 SUBDIVISION (a) OF THIS PARAGRAPH WOULD NOT BE INITIATED.

9 7. "PROCEEDS" MEANS THE MONIES FROM A SETTLEMENT, INSURANCE PAYMENT OR
10 AWARD OF DAMAGES OBTAINED IN THE CONSUMER'S LEGAL ACTION.

11 44-1382.01. Consumer lawsuit loan contract; maximum interest
12 rate

13 A. A CONSUMER LAWSUIT LOAN COMPANY MAY NOT ENTER INTO A CONSUMER
14 LAWSUIT LOAN TRANSACTION WITH A CONSUMER WITH RESPECT TO A LEGAL ACTION IN
15 WHICH THE CONSUMER IS A PARTY IF THE CONSUMER LAWSUIT LOAN COMPANY IMPOSES AN
16 ANNUAL RATE OF INTEREST THAT EXCEEDS THIRTY-SIX PERCENT.

17 B. A CONSUMER LAWSUIT LOAN CONTRACT ENTERED INTO IN VIOLATION OF THIS
18 SECTION IS VOID.

19 44-1382.02. Unlawful practice; attorney general

20 AN ACT OR PRACTICE IN VIOLATION OF THIS ARTICLE IS AN UNLAWFUL PRACTICE
21 UNDER SECTION 44-1522 AND IS SUBJECT TO ENFORCEMENT THROUGH PRIVATE ACTION
22 AND PROSECUTION BY THE ATTORNEY GENERAL. THE ATTORNEY GENERAL MAY
23 INVESTIGATE AND TAKE APPROPRIATE ACTION AS PRESCRIBED BY CHAPTER 10, ARTICLE
24 7 OF THIS TITLE.

25 Sec. 2. Severability

26 If a provision of this act or its application to any person or
27 circumstance is held invalid, the invalidity does not affect other provisions
28 or applications of the act that can be given effect without the invalid
29 provision or application, and to this end the provisions of this act are
30 severable.