

1 **SENATE FLOOR VERSION**

2 February 27, 2012

3 COMMITTEE SUBSTITUTE
4 FOR
5 SENATE BILL NO. 1780

By: Crain of the Senate

and

6 McDaniel (Randy) of the
7 House

8
9 An Act relating to consumer lawsuit loans; defining
10 terms; prohibiting certain transactions; declaring
11 certain contracts void; stating applicability of
12 certain enforcement provisions; clarifying
13 applicability of certain remedies; providing for
14 codification; and providing an effective date.

15 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

16 SECTION 1. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 800 of Title 15, unless there is
18 created a duplication in numbering, reads as follows:

19 A. As used in this act:

20 1. "Consumer" means a natural person who:

21 a. resides or is domiciled in this state; or

22 b. is a party to a legal action pending before a state or
23 federal court located in this state;

1 2. "Consumer lawsuit loan" means the funds provided directly or
2 indirectly to a consumer by a consumer legal funding company in a
3 consumer lawsuit loan transaction;

4 3. "Consumer lawsuit loan company" means a person or entity
5 that enters into a consumer lawsuit loan transaction with a
6 consumer. The term does not include an attorney who provides
7 professional services to the consumer on a contingency basis in
8 relation to the consumer's legal claim. The term does include, but
9 is not limited to:

- 10 a. an affiliate or subsidiary of a consumer lawsuit loan
11 company,
- 12 b. an entity or person who buys a whole or partial
13 interest in a consumer lawsuit loan,
- 14 c. a person who acts as an agent to provide a consumer
15 lawsuit loan from a third party for a fee,
- 16 d. a person who acts as an agent for a third party in
17 providing a consumer lawsuit loan for a fee,
18 regardless of whether approval or acceptance by the
19 third party is necessary to create a legal obligation
20 for the third party, or
- 21 e. any other person or entity that is determined by the
22 attorney general to be engaged in a transaction that
23 is a disguised consumer lawsuit loan or a subterfuge
24 for the purpose of avoiding this act.

1 4. "Consumer lawsuit loan contract" means a written or oral
2 agreement between a consumer and a consumer lawsuit loan company
3 providing for a consumer lawsuit loan transaction;

4 5. "Consumer lawsuit loan transaction" means a transaction in
5 which:

6 a. a consumer lawsuit loan company provides a consumer
7 lawsuit loan to a consumer, and

8 b. the consumer assigns, conveys or otherwise confers to
9 the consumer lawsuit loan company the right to receive
10 the proceeds, or part thereof, of the settlement,
11 insurance payment, or award of damages obtained in the
12 consumer's legal action.

13 6. "Legal action" means a bona fide civil action, statutory or
14 regulatory claim for which damages may be awarded to the claiming
15 party or a cause of action or legal claim upon which such civil
16 action, statutory or regulatory claim may be based. The term
17 includes, but is not limited to:

18 a. any settlement or negotiation toward settlement of a
19 civil action, statutory or regulatory proceeding
20 described in this paragraph. or

21 b. any agreement or negotiation toward an agreement under
22 which a civil action, statutory or regulatory
23 proceeding based upon a cause of action described in
24 this paragraph would not be initiated; and

1 7. "Proceeds" means the funds from a settlement, insurance
2 payment or award of damages obtained in the consumer's legal action.

3 B. A consumer lawsuit loan company may not enter into a
4 consumer lawsuit loan transaction with a consumer with respect to a
5 legal action in which the consumer is a party. A consumer lawsuit
6 loan contract entered into in violation of this subsection shall be
7 void from the inception of such contract.

8 C. A violation of this act shall constitute a prohibited
9 practice in accordance with the Consumer Protection Act and shall be
10 subject to any and all of the enforcement provisions of the Consumer
11 Protection Act. The remedies and rights provided under this act are
12 in addition to any remedy otherwise available under law to a
13 consumer claiming relief, including any award for general,
14 consequential or punitive damages.

15 SECTION 2. This act shall become effective November 1, 2012.

16 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 2-21-12 - DO
17 PASS, As Amended and Coauthored.