

Adopted	Rejected
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COMMITTEE REPORT

YES:	10
NO:	1

MR. SPEAKER:

*Your Committee on Insurance, to which was referred House Bill 1558, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT to amend the Indiana Code concerning civil
- 3 procedure.
- 4 Delete everything after the enacting clause and insert the following:
- 5 SECTION 1. IC 24-4.5-3-106 IS AMENDED TO READ AS
- 6 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 106. Definition: "Loan"
- 7 — "Loan" includes:
- 8 (1) the creation of debt by the lender's payment of or agreement to
- 9 pay money to the debtor or to a third party for the account of the
- 10 debtor;
- 11 (2) the creation of debt by a credit to an account with the lender
- 12 upon which the debtor is entitled to draw immediately;
- 13 (3) the creation of debt pursuant to a lender credit card or similar
- 14 arrangement; ~~and~~

- 1 (4) the forbearance of debt arising from a loan; **and**
 2 **(5) a consumer lawsuit loan (as defined in IC 34-60-1-2(2)).**

3 SECTION 2. IC 24-4.5-3-107, AS AMENDED BY P.L.145-2008,
 4 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 5 JULY 1, 2013]: Sec. 107. Definitions: "Lender"; "Precomputed";
 6 "Principal" – (1) Except as otherwise provided, "lender" means a
 7 person regularly engaged in making consumer loans. The term includes
 8 **the following:**

9 **(a) A consumer lawsuit lender (as defined in IC 34-60-1-2(3)).**

10 **(b)** An assignee of the lender's right to payment but use of the
 11 term does not in itself impose on an assignee any obligation of the
 12 lender with respect to events occurring before the assignment.

13 (2) A loan, refinancing, or consolidation is "precomputed" if the
 14 debt is expressed as a sum comprising the principal and the amount of
 15 the loan finance charge computed in advance.

16 (3) "Principal" of a loan means the total of:

17 (a) the net amount paid to, receivable by, or paid or payable for
 18 the account of the debtor;

19 (b) the amount of any discount excluded from the loan finance
 20 charge (subsection (2) of IC 24-4.5-3-109); and

21 (c) to the extent that payment is deferred:

22 (i) amounts actually paid or to be paid by the lender for
 23 registration, certificate of title, or license fees if not included
 24 in (a); and

25 (ii) additional charges permitted by this chapter
 26 (IC 24-4.5-3-202).

27 SECTION 3. IC 24-4.5-7-102, AS AMENDED BY P.L.35-2010,
 28 SECTION 82, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 29 JULY 1, 2013]: Sec. 102. (1) Except as otherwise provided, all
 30 provisions of this article applying to consumer loans apply to small
 31 loans, as defined in this chapter.

32 (2) This chapter applies to:

33 (a) a lender or to any person who facilitates, enables, or acts as a
 34 conduit for any person who is or may be exempt from licensing
 35 under IC 24-4.5-3-502;

36 (b) a bank, savings association, credit union, or other state or
 37 federally regulated financial institution except those that are
 38 specifically exempt regarding limitations on interest rates and

- 1 fees; or
 2 (c) a person, if the department determines that a transaction is:
 3 (i) in substance a disguised loan; or
 4 (ii) the application of subterfuge for the purpose of avoiding
 5 this chapter.
 6 (3) A loan that:
 7 (a) does not qualify as a small loan under section 104 of this
 8 chapter;
 9 (b) is for a term shorter than that specified in section 401(1) of
 10 this chapter; or
 11 (c) is made in violation of section 201, 401, 402, 404, or 410 of
 12 this chapter;

13 is subject to this article. The department may conform the finance
 14 charge for a loan described in this subsection to the limitations set forth
 15 in IC 24-4.5-3-508.

16 **(4) This chapter does not apply to a consumer lawsuit loan (as**
 17 **defined in IC 34-60-1-2(2)) or a consumer lawsuit lender (as**
 18 **defined in IC 34-60-1-2(3)).**

19 SECTION 4. IC 24-4.5-8 IS ADDED TO THE INDIANA CODE
 20 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 21 JULY 1, 2013]:

22 **Chapter 8. Consumer Lawsuit Lending**

23 **Sec. 1. Notwithstanding any other provision of this article, other**
 24 **than IC 24-4.5-7-102, a consumer lawsuit loan (as defined in**
 25 **IC 34-60-1-2(2)), regardless of amount, is a loan subject to all**
 26 **provisions of this article that apply to a loan.**

27 SECTION 5. IC 34-60 IS ADDED TO THE INDIANA CODE AS
 28 A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,
 29 2013]:

30 **ARTICLE 60. CONSUMER LAWSUIT LOANS**

31 **Chapter 1. Consumer Lawsuit Lending**

32 **Sec. 1. This chapter applies to a consumer lawsuit loan entered**
 33 **into after June 30, 2013.**

34 **Sec. 2. The following definitions apply throughout this chapter:**

35 **(1) "Consumer" means an individual who is or may become**
 36 **a plaintiff in a proceeding.**

37 **(2) "Consumer lawsuit lending" or "consumer lawsuit loan"**
 38 **means:**

- 1 **(A) providing money to a consumer for any purpose other**
 - 2 **than prosecuting the consumer's proceeding, if the**
 - 3 **repayment of the money is:**
 - 4 **(i) required only if the consumer prevails in the**
 - 5 **proceeding; and**
 - 6 **(ii) sourced from the proceeds of the proceeding, by**
 - 7 **judgment, settlement, or otherwise; or**
 - 8 **(B) purchasing from a consumer a contingent right to**
 - 9 **receive a share of the potential proceeds of the consumer's**
 - 10 **proceeding, by judgment, settlement, or otherwise.**
 - 11 **(3) "Consumer lawsuit lender" means any person that**
 - 12 **engages in consumer lawsuit lending.**
 - 13 **(4) "Proceeding" means:**
 - 14 **(A) a civil action;**
 - 15 **(B) mediation, arbitration, or any other alternative dispute**
 - 16 **resolution proceeding; or**
 - 17 **(C) an administrative proceeding before an agency or**
 - 18 **instrumentality of the state.**
 - 19 **Sec. 3. (a) If a consumer lawsuit lending agreement is executed**
 - 20 **before the consumer files a complaint or similar pleading, the**
 - 21 **consumer shall file a copy of the agreement with the tribunal when**
 - 22 **the complaint or similar pleading is filed.**
 - 23 **(b) If a consumer lawsuit lending agreement is executed after**
 - 24 **the consumer files a complaint or similar pleading, the consumer**
 - 25 **shall:**
 - 26 **(1) file a copy of the agreement with the tribunal not later**
 - 27 **than ten (10) days after the agreement is executed; and**
 - 28 **(2) serve a copy of the agreement on the opposing party.**
- (Reference is to HB 1558 as introduced.)

and when so amended that said bill do pass.

Representative Lehman