

BILL ANALYSIS

Senate Research Center

H.B. 2987
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Business & Commerce
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Engrossed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Recently, companies have formed to take advantage of plaintiffs who find themselves in financial distress, who usually have exhausted their savings and are in need of cash to pay ordinary living expenses. The company finds and evaluates lawsuits that have a high probability of success, including analyzing the plaintiff, venue, attorney, and defendant's ability to afford a settlement or pay a judgment. The company then approaches the plaintiff with the offer of money now with no responsibility to repay if the case is not successful. The interest rates charged are extremely high. The legal system can take much longer than expected by the plaintiff and the amount owed can exceed the plaintiff's share after attorney's fees and expenses are paid. This usually results in the plaintiff not wanting to or not being able to settle for an amount that does not cover the cost of the advance. H.B. 2987 requires these types of cash advances to adhere to the usury laws of the State of Texas.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 6, Civil Practice and Remedies Code, by adding Chapter 148, as follows:

CHAPTER 148. PROHIBITION ON LAWSUIT ADVANCE FUNDING FOR USURIOUS INTEREST

Sec. 148.001. PROHIBITION ON LAWSUIT ADVANCE FUNDING FOR USURIOUS INTEREST. (a) Provides that all funding advanced to a person whose repayment is contingent upon the person's recovery in a lawsuit is a loan subject to the usurious interest prohibition in Section 302.001 (Contracting For, Charging, or Receiving Interest or Time Price Differential; Usurious Interest), Finance Code, and the penalties prescribed by Chapter 305 (Penalties and Remedies), Finance Code. Provides that a contract to provide such funding that allows a rate of return in excess of the usurious interest prohibition in Section 302.001, Finance Code, is against the public policy of this state.

(b) Provides that this section does not apply to contracts entered into between an attorney and a client for the purpose of compensating the attorney for providing legal services.

SECTION 2. Effective date: September 1, 2005.
Makes application of this Act prospective.