

**Senate File 586 - Introduced**

SENATE FILE 586  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SF 54)

**A BILL FOR**

1 An Act relating to third-party litigation funding and including  
2 applicability provisions.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

unofficial

1 Section 1. PURPOSE. In an effort to promote consumer  
2 protections related to consumer litigation funding transactions,  
3 this Act establishes that such transactions must be  
4 subject to state regulation and sets forth requirements  
5 regarding disclosure, registration, funding company and attorney  
6 responsibilities and limitations, violations, and other items.  
7 This Act also requires the disclosure of commercial litigation  
8 financing agreements and sets forth certain prohibitions  
9 regarding commercial litigation financing agreements.

10 Sec. 2. NEW SECTION. **537C.1 Title.**

11 This chapter shall be known and may be cited as the  
12 *"Third-Party Litigation Funding Transparency Act"*.

13 Sec. 3. NEW SECTION. **537C.2 Definitions.**

14 As used in this chapter, the following terms shall have the  
15 following meanings:

16 1. "Advertise" means publishing or disseminating any written,  
17 oral, electronic, or printed communication or any communication  
18 by means of recorded telephone messages or transmitted or  
19 broadcast on radio, television, the internet or similar  
20 communications, media, including audio recordings, film strips,  
21 motion pictures and videos, published, disseminated, circulated  
22 or placed before the public, directly or indirectly, for the  
23 purpose of inducing a consumer to enter into a consumer  
24 litigation funding.

25 2. "Charges" means the amount of money to be paid to the  
26 consumer litigation funding company by or on behalf of the  
27 consumer, above the funded amount provided by or on behalf of  
28 the consumer litigation funding company to a consumer. Charges  
29 include all administrative, origination, underwriting, or other  
30 fees, including interest, no matter how denominated.

31 3. "Commercial litigation financier" means a person in  
32 the business of entering into commercial litigation financing  
33 agreements with claimants or with lawyers or law firms asserting  
34 legal claims on behalf of claimants. "Commercial litigation  
35 financier" does not include a nonprofit organization exempt

1 from federal income tax under section 501(c)(3) of the Internal  
2 Revenue Code or its funders if the nonprofit organization  
3 represents the claimant on a pro bono basis, which may include  
4 an award of costs or attorney fees to the nonprofit organization  
5 or a related attorney.

6 4. a. "Commercial litigation financing agreement" means with  
7 respect to any civil action or group of civil actions, a written  
8 agreement or any contract that does all of the following:

9 (1) A third party agrees to provide funds to one of the named  
10 parties or any law firm affiliated with the action or group of  
11 civil actions.

12 (2) Creates a direct or collateralized interest in the  
13 proceeds of a civil action or group of civil actions, whether by  
14 settlement, verdict, judgment, or otherwise, and whose interest  
15 is based in whole or in part on a funding-based obligation  
16 to the action or group of actions or the appearing counsel or  
17 any contractual co-counsel or the law firms of the counsel or  
18 co-counsel executed with any of the following:

19 (a) Any attorney representing a party.

20 (b) Any co-counsel in the litigation with a contingent fee  
21 interest in the representation of that party.

22 (c) Any third party who has a collateral-based interest in  
23 the contingency fees of the counsel or co-counsel firm related  
24 in whole or in part to the fees derived from representing that  
25 party.

26 b. "Commercial litigation financing agreement" does not  
27 include any of the following:

28 (1) A consumer litigation funding agreement.

29 (2) An agreement by an attorney or law firm to provide legal  
30 services on a contingency fee basis to the claimant or to advance  
31 the claimant's legal costs in accordance with the Iowa rules of  
32 professional conduct.

33 (3) A health insurer, medical provider, or assignee that has  
34 paid, is obligated to pay, or is owed any sums for a person's  
35 health care under the terms of a health insurance plan or

1 agreement.

2 (4) A financial institution providing loans to the claimant  
3 or the claimant's attorney or law firm when repayment is not  
4 contingent upon the outcome of the legal claim or on the outcome  
5 of any matter within a portfolio that includes the legal claim  
6 and involves the same attorney or law firm or affiliated attorney  
7 or law firm.

8 (5) A person with a preexisting contractual obligation to  
9 indemnify or defend a party to a legal claim.

10 5. "Consumer" means a natural person or estate for a decedent  
11 with a legal claim.

12 6. "Consumer litigation funding" means a nonrecourse  
13 transaction in which a consumer litigation funding company  
14 purchases and a consumer assigns to the company a contingent  
15 right to receive an amount of the potential proceeds of  
16 a settlement, judgment, award, or verdict obtained in the  
17 consumer's legal claim.

18 7. "Consumer litigation funding company" means a person or  
19 entity that enters into a consumer litigation funding contract  
20 with a consumer. "Consumer litigation funding company" does not  
21 include any of the following:

22 a. An immediate family member of the consumer.

23 b. A bank, lender, financing entity, or other special purpose  
24 entity that provides financing to a consumer litigation funding  
25 company or to which a consumer litigation funding company grants  
26 a security interest or transfers any rights or interest in a  
27 consumer litigation funding.

28 c. An attorney or accountant who provides services to a  
29 consumer.

30 8. "Foreign country or person of concern" means a foreign  
31 government or person listed in 15 C.F.R. §791.4 or a country  
32 designated as a threat to critical infrastructure by the  
33 governor.

34 9. "Foreign entity of concern" means an entity that is any of  
35 the following:

1 a. Organized or incorporated in a foreign country of concern.

2 b. Owned or controlled by the government, a political  
3 subdivision, or a political party of a foreign country of  
4 concern.

5 c. Has a principal place of business in a foreign country of  
6 concern.

7 d. Owned, organized, or controlled by, affiliated with, or  
8 acting on behalf of an individual or entity that is or has been  
9 any of the following:

10 (1) On a sanctions list maintained by the federal office of  
11 foreign assets control, including any of the following:

12 (a) Specially designated nationals and blocked persons list.

13 (b) Foreign sanctions evaders list.

14 (c) Non-SDN Iran sanctions act list.

15 (d) Sectoral sanctions identifications list.

16 (e) List of foreign financial institutions subject to  
17 correspondent account and payable-through account sanctions.

18 (2) Designated by the United States secretary of state as a  
19 foreign terrorist organization.

20 10. "*Funded amount*" means the amount of moneys provided to,  
21 or on behalf of, the consumer in a consumer litigation funding  
22 contract. "*Funded amount*" excludes charges.

23 11. "*Funding date*" means the date on which the funded amount  
24 is transferred to the consumer by the consumer litigation funding  
25 company either by personal delivery or through a wire transfer  
26 network, automated clearing house, or other electronic means or  
27 mailed by insured, certified, or registered United States mail.

28 12. "*Immediate family member*" means a parent; sibling;  
29 child by blood, adoption, or marriage; spouse; grandparent; or  
30 grandchild.

31 13. "*Legal claim*" means a civil claim or cause of action.

32 14. "*Resolution date*" means the date the funded amount, plus  
33 the agreed-upon charges, are delivered to the consumer litigation  
34 funding company by the consumer, the consumer's attorney, or  
35 otherwise.

1     Sec. 4. NEW SECTION.   **537C.3 Consumer litigation funding**  
2 **contract requirements — right of rescission — disclosures to**  
3 **consumers.**

4     1. All consumer litigation funding contracts must meet all of  
5 the following requirements:

6     a. The contract shall be written in a clear and coherent  
7 manner using words with common, everyday meanings to enable the  
8 average consumer who makes a reasonable effort under ordinary  
9 circumstances to read and understand the terms of the contract  
10 without having to obtain the assistance of a professional.

11    b. The contract shall be completely filled in when presented  
12 to the consumer for signature.

13    c. The contract shall contain the initials of the consumer on  
14 each page.

15    d. The contract shall contain a statement that there are no  
16 fees or charges to be paid by the consumer other than what is  
17 disclosed on the disclosure form.

18    e. In the event the consumer seeks more than one litigation  
19 funding contract from the same company, the contract shall  
20 contain a statement providing the cumulative amount due from  
21 the consumer for all transactions, including charges under all  
22 contracts, if repayment is made any time after the contracts are  
23 executed.

24    f. The contract shall contain a statement of the maximum  
25 amount the consumer may be obligated to pay under the  
26 contract other than in a case of material breach, fraud, or  
27 misrepresentation by or on behalf of the consumer.

28    g. The contract shall clearly and conspicuously detail how  
29 charges, including any applicable fees, are incurred or accrued.

30    2. All consumer litigation funding contracts must contain the  
31 disclosures specified in this section, which shall constitute  
32 material terms of the contract. Unless otherwise specified, such  
33 disclosures shall be typed in at least twelve point bold type  
34 font and be placed clearly and conspicuously within the contract,  
35 as follows:

1     a. On the front page under appropriate headings, language  
2 specifying all of the following:

3       (1) The funded amount to be paid to the consumer by the  
4 consumer litigation funding company.

5       (2) An itemization of one-time charges.

6       (3) The maximum total amount to be assigned by the consumer  
7 to the company, including the funded amount and all charges.

8       (4) A payment schedule to include the funded amount and  
9 charges, listing all dates and the amount due at the end of  
10 each one-hundred-eighty-day period from the funding date, until  
11 the date the maximum amount due to the company pursuant to the  
12 contract is paid.

13     b. Within the body of the consumer litigation funding  
14 contract, language stating all of the following:

15     \_\_\_ Consumer's right to cancellation: you may cancel this  
16 contract without penalty or further obligation within ten  
17 business days after the funding date if you return to the  
18 consumer litigation funding company the full amount of the  
19 disbursed funds.

20     \_\_\_ The consumer litigation funding company shall have no role in  
21 deciding whether, when, and how much the legal claim is settled  
22 for; however, the consumer and consumer's attorney must notify  
23 the consumer litigation funding company of the outcome of the  
24 legal claim by settlement or adjudication prior to or on the  
25 resolution date. The company may seek updated information about  
26 the status of the legal claim but in no event shall the company  
27 attempt to interfere with, control, or influence the independent  
28 professional judgment of the attorney in the handling of the  
29 legal claim or any settlement thereof.

30     \_\_\_ THE FUNDED AMOUNT AND AGREED-UPON CHARGES SHALL BE PAID ONLY  
31 FROM THE PROCEEDS OF YOUR LEGAL CLAIM, AND SHALL BE PAID ONLY  
32 TO THE EXTENT THAT THERE ARE AVAILABLE PROCEEDS FROM YOUR LEGAL  
33 CLAIM. YOU WILL NOT OWE (INSERT NAME OF THE CONSUMER LITIGATION  
34 FUNDING COMPANY) ANYTHING IF THERE ARE NO PROCEEDS FROM YOUR  
35 LEGAL CLAIM, UNLESS YOU HAVE VIOLATED ANY MATERIAL TERM OF THIS

1 CONTRACT OR YOU HAVE COMMITTED FRAUD AGAINST (INSERT NAME OF  
2 CONSUMER LITIGATION FUNDING COMPANY).

3 c. Located immediately above the place on the contract where  
4 the consumer's signature is required, in twelve point bold type  
5 font: Do not sign this contract before you read it completely.  
6 Do not sign this contract if it contains any blank spaces.  
7 You are entitled to a completely filled-in copy of the contract  
8 before you sign this contract. You should obtain the advice  
9 of an attorney before signing this contract. Depending on the  
10 circumstances, you may want to consult a tax, public or private  
11 benefits planning, or financial professional. You acknowledge  
12 that your attorney in the legal claim has provided no tax, public  
13 or private benefit planning, or financial advice regarding this  
14 transaction. You further acknowledge that your attorney has  
15 explained the terms and conditions of the consumer litigation  
16 funding contract.

17 3. All consumer litigation funding contracts must contain a  
18 written acknowledgment by the attorney retained by the consumer  
19 in the legal claim that attests to all of the following:

20 a. The attorney has reviewed the disclosures in subsections 1  
21 and 2 with the consumer.

22 b. The attorney is being paid on a contingency basis pursuant  
23 to a written fee agreement.

24 c. All proceeds of the legal claim will be disbursed via  
25 either the trust account of the attorney or a settlement fund  
26 established to receive the proceeds of the legal claim on behalf  
27 of the consumer.

28 d. The attorney is obligated to disburse funds from the legal  
29 claim and take any other steps to ensure that the terms of the  
30 litigation funding contract are fulfilled.

31 e. The attorney has not received a referral fee or other  
32 consideration from the consumer litigation funding company in  
33 connection with the consumer litigation funding, nor will the  
34 attorney receive such fee or other consideration in the future.

35 f. The attorney in the legal claim has provided no tax,

1 public, or private benefit planning, or financial advice  
2 regarding this transaction.

3 4. In the event that the acknowledgement required pursuant to  
4 subsection 3 is not provided by the attorney or firm retained  
5 by the consumer in the legal claim, the consumer litigation  
6 funding contract shall be null and void. The consumer litigation  
7 funding contract shall remain valid and enforceable in the event  
8 the consumer terminates the initial attorney or retains a new  
9 attorney with respect to the legal claim.

10 5. A copy of the executed contract shall promptly be  
11 delivered to the attorney for the consumer.

12 Sec. 5. NEW SECTION. **537C.4 Consumer litigation funding**  
13 **prohibitions and charge limitations.**

14 1. Consumer litigation funding companies shall not do any of  
15 the following:

16 a. Pay or offer to pay commissions, referral fees, or other  
17 forms of consideration to any attorney, law firm, health care  
18 provider, chiropractor, physical therapist, or any of such  
19 person's employees for referring a consumer to the consumer  
20 litigation funding company.

21 b. Accept commissions, referral fees, rebates, or other  
22 forms of consideration from an attorney, law firm, health care  
23 provider, chiropractor, physical therapist, or any of such  
24 person's employees.

25 c. Intentionally advertise false or misleading information  
26 regarding the consumer litigation funding company's products or  
27 services.

28 d. Refer, in furtherance of an initial legal funding, a  
29 customer or potential customer to a specific attorney, law firm,  
30 health care provider, chiropractor, physical therapist, or any of  
31 such person's employees; provided, however, if a customer needs  
32 legal representation, the consumer litigation funding company may  
33 refer the customer to a local or state bar association referral  
34 service.

35 e. Knowingly provide funding to a consumer who has previously

1 assigned or sold a portion of the consumer's right to proceeds  
2 from a legal claim without first making payment to or purchasing  
3 a prior unsatisfied consumer litigation funding company's entire  
4 funded amount and contracted charges, unless a lesser amount  
5 is otherwise agreed to in writing by the consumer litigation  
6 funding company, except that multiple companies may agree  
7 to contemporaneously provide consumer litigation funding to a  
8 consumer provided that the consumer and the consumer's attorney  
9 consent to the arrangement in writing.

10 *f.* Make any decision, have any influence, or direct any  
11 decisions with respect to the course of a legal claim, including  
12 decisions in appointing or changing counsel, choice or use  
13 of expert witnesses, litigation strategy, and settlement or  
14 other resolution. The right to make all decisions regarding a  
15 legal claim remains solely with the claimant and the claimant's  
16 attorney or law firm.

17 *g.* Attempt to obtain a waiver of any remedy or right by the  
18 consumer, including but not limited to the right to trial by  
19 jury.

20 *h.* Knowingly pay or offer to pay for court costs, filing  
21 fees, or attorney fees either during or after the resolution of  
22 the legal claim, using funds from the consumer litigation funding  
23 transaction.

24 2. Notwithstanding any other provision of law, prepayment  
25 penalties or fees shall not be charged or collected in  
26 connection with a consumer litigation funding transaction. A  
27 prepayment penalty in a consumer litigation funding transaction  
28 is unenforceable.

29 3. An attorney or law firm retained by the consumer in a  
30 legal claim shall not have a financial interest in the consumer  
31 litigation funding company offering consumer litigation funding  
32 to that consumer.

33 4. An attorney who has referred the consumer to a retained  
34 attorney shall not have a financial interest in the consumer  
35 litigation funding company offering consumer litigation funding

1 to that consumer.

2 5. An attorney shall not disclose confidential or privileged  
3 information to a consumer litigation funding company without the  
4 written consent of the consumer and in accord with any order of  
5 the court in the litigation.

6 6. A consumer litigation funding company shall not enter into  
7 a consumer litigation financing contract directly or indirectly  
8 with a foreign entity of concern or a foreign country or person  
9 of concern.

10 Sec. 6. NEW SECTION. **537C.5 Contracted amounts for consumer**  
11 **litigation funding.**

12 The contracted amount to be paid to the consumer litigation  
13 funding company shall be a predetermined amount based upon  
14 intervals of time from the funding date through the resolution  
15 date, and shall not be determined as a percentage of the recovery  
16 from the legal claim.

17 Sec. 7. NEW SECTION. **537C.6 Disclosures.**

18 1. Within thirty days of a written request, a consumer shall  
19 disclose to any party to a legal claim and each insurer that has  
20 a duty to defend whether the consumer has entered into a consumer  
21 litigation funding contract.

22 2. If a consumer enters into a consumer litigation funding  
23 contract after responding to a request pursuant to subsection 1,  
24 the consumer has a continuing obligation to disclose and shall  
25 disclose this fact to the requesting person within thirty days  
26 after the consumer enters into the contract.

27 3. Consumer litigation funding contracts, and all  
28 participants or parties to the consumer litigation contract,  
29 are presumed to be discoverable in a civil proceeding,  
30 notwithstanding any agreement or provision with respect to  
31 confidentiality. A consumer may seek to rebut this presumption.

32 4. Consumer litigation funding transactions disclosed under  
33 subsections 1 and 2 and consumer litigation funding contracts  
34 discovered pursuant to subsection 3 are presumed to be  
35 inadmissible as evidence. A party may seek to rebut this

1 presumption.

2 Sec. 8. NEW SECTION. **537C.7 Violations of consumer**  
3 **litigation funding requirements.**

4 1. If a consumer litigation funding company that willfully  
5 violates any provision of this chapter in a specific funding  
6 case, all of the following apply:

7 a. Shall waive the consumer litigation funding company's  
8 right to recover both the funded amount and any and all charges,  
9 as defined in section 537C.2, in that particular case.

10 b. Shall be liable for a civil penalty of not more than one  
11 hundred thousand dollars for each violation, which shall accrue  
12 to the state of Iowa and may be recovered in a legal claim  
13 brought by the attorney general.

14 2. This chapter shall not restrict the power of the attorney  
15 general.

16 Sec. 9. NEW SECTION. **537C.8 Assignability — liens**  
17 **regarding consumer litigation funding.**

18 1. The contingent right to receive an amount of the potential  
19 proceeds of a legal claim is assignable by a consumer to a  
20 consumer litigation funding company.

21 2. Only attorney's liens related to the legal claim which  
22 is the subject of the consumer litigation funding, Medicare,  
23 or other statutory liens related to the legal claim shall  
24 take priority over any lien of the consumer litigation funding  
25 company.

26 Sec. 10. NEW SECTION. **537C.9 Consumer litigation funding**  
27 **privileged communications.**

28 Communications between a consumer's attorney and a consumer  
29 legal funding company to allow the consumer legal funding company  
30 to ascertain the status of a legal claim or a legal claim's  
31 expected value shall not be discoverable by a person against whom  
32 the legal claim is asserted or filed.

33 Sec. 11. NEW SECTION. **537C.10 Consumer litigation funding**  
34 **and commercial litigation financing registration.**

35 1. Unless a consumer litigation funding company or commercial

1 litigation financier has first registered with the state pursuant  
2 to this chapter, the company shall not engage in consumer  
3 litigation funding or commercial litigation financing agreements  
4 in this state.

5 2. An applicant's registration must be filed in the manner  
6 prescribed by the secretary of state and must contain all  
7 the information required by the secretary of state to make  
8 an evaluation of the character and fitness of the applicant  
9 company or financier, including but not limited to any beneficial  
10 ownership exceeding twenty percent. The initial application must  
11 be accompanied by a fee determined by the secretary of state.  
12 A renewal registration must include a fee determined by the  
13 secretary of state. A registration must be renewed every two  
14 years and expires on December 31.

15 3. A certificate of registration shall not be issued unless  
16 the secretary of state, upon investigation, finds that the  
17 character and fitness of the applicant company or financier, and  
18 of the officers and directors thereof, are such as to warrant  
19 belief that the business will be operated honestly and fairly  
20 within the purposes of this chapter.

21 4. Every registrant shall, at the time of filing such  
22 application, file with the secretary of state, if the secretary  
23 of state so requires, a bond satisfactory to the secretary of  
24 state in an amount not to exceed one hundred thousand dollars.  
25 In lieu of the bond at the option of the registrant, the  
26 registrant may post an irrevocable letter of credit. The terms  
27 of the bond must run concurrent with the period of time during  
28 which the registration will be in effect. The bond must provide  
29 that the registrant will faithfully conform to and abide by the  
30 provisions of this chapter and to all rules lawfully made by  
31 the administrator under this chapter and to any such person or  
32 persons any and all amounts of money that may become due or owing  
33 to the state or to such person or persons from the registrant  
34 under and by virtue of this chapter during the period for which  
35 the bond is given.

1 5. Upon written request, the applicant shall be entitled to  
2 a hearing on the question of the applicant's qualifications for  
3 registration if any of the following are true:

4 a. The secretary of state has notified the applicant in  
5 writing that the application has been denied.

6 b. The secretary of state has not issued a registration  
7 within sixty days after the application for the registration was  
8 filed.

9 6. A request for a hearing shall not be made more than  
10 fifteen days after the secretary of state has mailed a written  
11 notice to the applicant that the application has been denied and  
12 stating in substance the secretary of state's findings supporting  
13 denial of the application.

14 7. Notwithstanding the prior approval requirement of  
15 subsection 1, a consumer litigation funding company or commercial  
16 litigation financier that registered with the secretary of state  
17 between the effective date of this Act or when the secretary of  
18 state has made applications available to the public, whichever  
19 is later, and one hundred eighty days thereafter may engage in  
20 consumer commercial litigation funding or commercial litigation  
21 financing agreements while the company's registration is pending  
22 approval with the secretary of state. All consumer litigation  
23 funding or commercial litigation financing agreements entered  
24 into prior to the effective date of this Act are not subject to  
25 the terms of this chapter.

26 8. A person or entity shall not use any form of consumer  
27 litigation funding contract or commercial litigation financing  
28 agreement in this state unless it has been filed with the  
29 secretary of state in accordance with the filing procedures set  
30 forth by the secretary of state. Such procedures shall designate  
31 a reasonable time frame for the state to raise objections to any  
32 filed form.

33 Sec. 12. NEW SECTION. **537C.11 Commercial litigation**  
34 **financing reporting.**

35 1. Each commercial litigation financier that engages in

1 business in the state shall annually submit a report to  
2 the secretary of state by December 31 specifying all of the  
3 following:

4 a. The number of litigation fundings by the company or  
5 financier that year.

6 b. A summation of funded amounts in dollars that year.

7 c. The annual percentage charged to each consumer or  
8 commercial litigation funding recipient where repayment was made  
9 that year.

10 2. The secretary of state shall make such information  
11 available to the public, in a manner which maintains the  
12 confidentiality of the name of each company and consumer, no  
13 later than thirty days after the reports are submitted.

14 Sec. 13. NEW SECTION. **537C.12 Prohibitions related to**  
15 **commercial litigation funding.**

16 1. A commercial litigation financier shall not enter into a  
17 commercial litigation financing agreement directly or indirectly  
18 with a foreign entity of concern, a foreign country, or person of  
19 concern.

20 2. A claimant, attorney, or law firm representing a claimant,  
21 affiliated attorney, or law firm shall not disclose or share any  
22 documents or information with a commercial litigation financier  
23 where such information is subject to a protective or sealing  
24 order from a court.

25 3. A commercial litigation financier shall not make any  
26 decision, have any influence, or direct any decisions with  
27 respect to the course of a legal claim, including decisions  
28 in appointing or changing counsel, choice or use of expert  
29 witnesses, litigation strategy, and settlement or other  
30 resolution. The right to make all decisions regarding a legal  
31 claim remains solely with the claimant and the claimant's  
32 attorney or law firm.

33 Sec. 14. NEW SECTION. **537C.13 Commercial litigation**  
34 **financing agreement disclosure and discovery.**

35 1. Except as otherwise stipulated or ordered by the court,

1 a claimant or the claimant's attorney shall, without awaiting  
2 a discovery request, provide to all parties any commercial  
3 litigation financing agreement at the time a legal claim is  
4 asserted or commenced and any time thereafter that a commercial  
5 litigation financing agreement is executed or amended. An  
6 insurer that has or may have a duty to defend or indemnify a  
7 party to a legal claim shall be provided with the commercial  
8 litigation financing agreement or any modifications or amendments  
9 to the agreement.

10 2. Commercial litigation financing agreements and all  
11 participants or parties to such agreements are permissible  
12 subjects of discovery in a legal claim.

13 Sec. 15. NEW SECTION. **537C.14 Authority of secretary of**  
14 **state to promulgate certain rules.**

15 The secretary of state is authorized to adopt rules necessary  
16 to effectuate the purposes of this chapter.

17 Sec. 16. APPLICABILITY. This Act applies to any consumer  
18 litigation funding, contract, or commercial litigation financing  
19 agreement that is effectuated on or after July 1, 2025.

20 EXPLANATION

21 The inclusion of this explanation does not constitute agreement with  
22 the explanation's substance by the members of the general assembly.

23 This bill creates the third-party litigation funding  
24 transparency Act, which provides the terms, conditions, and  
25 disclosures related to consumer litigation funding transactions.

26 The bill defines "consumer litigation funding" to mean a  
27 nonrecourse transaction in which a consumer litigation funding  
28 company purchases, and a consumer assigns to the company, a  
29 contingent right to receive an amount of the potential proceeds  
30 of settlement, judgment, award, or verdict obtained in the  
31 consumer's legal claim.

32 The bill requires all consumer litigation funding contracts  
33 to do the following: (1) be written in a clear and coherent  
34 manner, (2) be completely finished when presented to the consumer  
35 for a signature, (3) contain the initial of the consumer on each

1 page of the contract, (4) have a statement providing there are  
2 no fees or charges other than the ones listed in the contract,  
3 (5) if a consumer has more than one consumer litigation funding  
4 contract with the same company, each contract must provide the  
5 cumulative amount due from the consumer for all transactions,  
6 (6) contain a statement of the maximum amount the consumer may  
7 be obligated to pay, and (7) detail how charges or fees are  
8 incurred or accrued. A consumer litigation funding contract must  
9 include disclosures required by the bill and the manner in which  
10 disclosures are typed. The bill requires a consumer litigation  
11 funding contract to have a written acknowledgment by the attorney  
12 retained by the consumer in the legal claim. If such required  
13 attorney acknowledgment is not provided, the consumer litigation  
14 funding contract is null and void. If the consumer retains a  
15 new attorney or terminates the initial attorney, the consumer  
16 litigation funding contract is considered enforceable. The bill  
17 requires a copy of the executed contract to be promptly delivered  
18 to the consumer's attorney.

19 The bill prohibits consumer litigation funding companies from  
20 doing any of the following: (1) paying or offering to pay  
21 commissions, referral fees, or other forms of consideration to  
22 any person for referring a consumer to the consumer litigation  
23 funding company, (2) accepting commissions, referral fees,  
24 rebates, or other forms of consideration from an attorney, law  
25 firm, health care provider, chiropractor, physical therapist, or  
26 any of such person's employees, (3) intentionally advertising  
27 false or misleading information regarding the consumer litigation  
28 funding company's products or services, (4) referring, in  
29 furtherance of an initial legal funding, a customer or potential  
30 customer to a specific person, (5) knowingly providing funding  
31 to a consumer who has previously assigned or sold a portion of  
32 the consumer's right to proceeds from a legal claim without first  
33 making payment to or purchasing a prior unsatisfied consumer  
34 litigation funding company's entire funded amount and contracted  
35 charges, (6) making any decision, having any influence, or

1 directing any decisions with respect to the course of a legal  
2 claim, (7) attempting to obtain a waiver of any remedy or right  
3 by the consumer, and (8) knowingly paying or offering to pay  
4 for court costs, filing fees, or attorney fees using funds from  
5 the consumer litigation funding transaction. The bill provides  
6 that a consumer litigation funding company shall not enter into  
7 a consumer litigation financing contract directly or indirectly  
8 with a foreign entity of concern or a foreign country or person  
9 of concern, as those terms are defined in the bill.

10 The bill requires that the contracted amount to be paid to the  
11 consumer litigation funding company to be a predetermined amount  
12 and shall not be determined as a percentage of the recovery from  
13 the legal claim.

14 The bill requires that within 30 days of a written request,  
15 a consumer shall disclose to any party to a legal claim and  
16 each insurer that has a duty to defend whether the consumer  
17 has entered into a consumer litigation funding contract. The  
18 consumer has an ongoing obligation to disclose a consumer  
19 litigation funding contract to such parties if entered into  
20 after the initial request. The bill provides that consumer  
21 litigation funding contracts, and all participants or parties to  
22 the consumer litigation contract, are presumed to be discoverable  
23 in a civil proceeding. However, consumer litigation funding  
24 transactions disclosed under the bill and consumer litigation  
25 funding contracts discovered pursuant to the bill are presumed to  
26 be inadmissible as evidence.

27 The bill provides damages and penalties for a violation of a  
28 consumer litigation funding requirement.

29 The bill allows the contingent right to receive an amount of  
30 the potential proceeds of a legal claim to be assignable by a  
31 consumer to a consumer litigation funding company. The bill also  
32 provides which liens shall take priority.

33 The bill provides for privileged communications between a  
34 consumer's attorney and a consumer legal funding company to allow  
35 the consumer legal funding company to ascertain the status of a

1 legal claim.

2 The bill requires the registration of consumer litigation  
3 funding companies and commercial litigation financiers with the  
4 secretary of state. The bill provides registration requirements  
5 and procedures for a consumer litigation funding company or  
6 commercial litigation financier. The bill requires a commercial  
7 litigation financier or consumer litigation funding company to  
8 submit annual reports to the secretary of state. The bill  
9 provides that all documents and information filed with the  
10 secretary of state pursuant to the registration are public  
11 records.

12 The bill prohibits a commercial litigation financier from  
13 entering into a commercial litigation financing agreement  
14 directly or indirectly with a foreign entity of concern, a  
15 foreign country, or person of concern. The bill prohibits  
16 a claimant, attorney, or law firm representing a claimant,  
17 affiliated attorney, or law firm from disclosing or sharing any  
18 documents or information with a commercial litigation financier  
19 where such information is subject to a protective or sealing  
20 order from a court. The bill further prohibits a commercial  
21 litigation financier from making any decision, having any  
22 influence, or directing any decisions with respect to the course  
23 of a legal claim.

24 The bill authorizes the secretary of state to adopt rules  
25 necessary to effectuate the purposes of the bill.

26 The bill applies to any consumer litigation funding, contract,  
27 or commercial litigation financing agreement that is effectuated  
28 on or after July 1, 2025.