

Senate File 2419 - Introduced

SENATE FILE 2419
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SF 586)
(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:

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

11 Sec. 2. NEW SECTION. 537C.1 Title.

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

14 Sec. 3. NEW SECTION. 537C.2 Definitions.

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

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

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

32 3. *“Commercial litigation financier”* means a person in the
33 business of entering into commercial litigation financing
34 agreements with claimants or with lawyers or law firms
35 asserting legal claims on behalf of claimants. *“Commercial*

1 *litigation financier*” does not include a nonprofit organization
2 exempt from federal income tax under section 501(c)(3) of
3 the Internal Revenue Code or its funders if the nonprofit
4 organization represents the claimant on a pro bono basis, which
5 may include an award of costs or attorney fees to the nonprofit
6 organization or a related attorney.

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

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

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

21 (a) Any attorney representing a party.

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

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

28 b. “*Commercial litigation financing agreement*” does not
29 include any of the following:

30 (1) A consumer litigation funding agreement.

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

35 (3) A health insurer, medical provider, or assignee that has

1 paid, is obligated to pay, or is owed any sums for a person's
2 health care under the terms of a health insurance plan or
3 agreement.

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

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

12 5. "*Consumer*" means a natural person or estate for a
13 decedent with a legal claim.

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

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

24 a. An immediate family member of the consumer.

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

30 c. An attorney or accountant who provides services to a
31 consumer.

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

1 9. "*Foreign entity of concern*" means an entity that is any
2 of the following:

3 a. Organized or incorporated in a foreign country of
4 concern.

5 b. Owned or controlled by the government, a political
6 subdivision, or a political party of a foreign country of
7 concern.

8 c. Has a principal place of business in a foreign country
9 of concern.

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

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

15 (a) Specially designated nationals and blocked persons
16 list.

17 (b) Foreign sanctions evaders list.

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

19 (d) Sectoral sanctions identifications list.

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

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

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

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

33 12. "*Immediate family member*" means a parent; sibling;
34 child by blood, adoption, or marriage; spouse; grandparent; or
35 grandchild.

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

2 14. "Resolution date" means the date the funded amount,
3 plus the agreed-upon charges, are delivered to the consumer
4 litigation funding company by the consumer, the consumer's
5 attorney, or otherwise.

6 Sec. 4. NEW SECTION. 537C.3 Consumer litigation funding
7 contract requirements — right of rescission — disclosures to
8 consumers.

9 1. All consumer litigation funding contracts must meet all
10 of the following requirements:

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

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

18 c. The contract shall contain the initials of the consumer
19 on each page.

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

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

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

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

1 2. All consumer litigation funding contracts must contain
2 the disclosures specified in this section, which shall
3 constitute material terms of the contract. Unless otherwise
4 specified, such disclosures shall be typed in at least twelve
5 point bold type font and be placed clearly and conspicuously
6 within the contract, as follows:

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

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

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

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

14 (4) A payment schedule to include the funded amount and
15 charges, listing all dates and the amount due at the end of
16 each one-hundred-eighty-day period from the funding date, until
17 the date the maximum amount due to the company pursuant to the
18 contract is paid.

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

21 Consumer's right to cancellation: you may cancel this
22 contract without penalty or further obligation within ten
23 business days after the funding date if you return to the
24 consumer litigation funding company the full amount of the
25 disbursed funds.

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

1 THE FUNDED AMOUNT AND AGREED-UPON CHARGES SHALL BE PAID
2 ONLY FROM THE PROCEEDS OF YOUR LEGAL CLAIM, AND SHALL BE PAID
3 ONLY TO THE EXTENT THAT THERE ARE AVAILABLE PROCEEDS FROM YOUR
4 LEGAL CLAIM. YOU WILL NOT OWE (INSERT NAME OF THE CONSUMER
5 LITIGATION FUNDING COMPANY) ANYTHING IF THERE ARE NO PROCEEDS
6 FROM YOUR LEGAL CLAIM, UNLESS YOU HAVE VIOLATED ANY MATERIAL
7 TERM OF THIS CONTRACT OR YOU HAVE COMMITTED FRAUD AGAINST
8 (INSERT NAME OF CONSUMER LITIGATION FUNDING COMPANY).

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

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

26 a. The attorney has reviewed the disclosures in subsections
27 1 and 2 with the consumer.

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

30 c. All proceeds of the legal claim will be disbursed via
31 either the trust account of the attorney or a settlement fund
32 established to receive the proceeds of the legal claim on
33 behalf of the consumer.

34 d. The attorney is obligated to disburse funds from the
35 legal claim and take any other steps to ensure that the terms

1 of the litigation funding contract are fulfilled.

2 *e.* The attorney has not received a referral fee or other
3 consideration from the consumer litigation funding company in
4 connection with the consumer litigation funding, nor will the
5 attorney receive such fee or other consideration in the future.

6 *f.* The attorney in the legal claim has provided no tax,
7 public, or private benefit planning, or financial advice
8 regarding this transaction.

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

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

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

21 1. Consumer litigation funding companies shall not do any
22 of the following:

23 *a.* Pay or offer to pay commissions, referral fees, or other
24 forms of consideration to any attorney, law firm, health care
25 provider, chiropractor, physical therapist, or any of such
26 person's employees for referring a consumer to the consumer
27 litigation funding company.

28 *b.* Accept commissions, referral fees, rebates, or other
29 forms of consideration from an attorney, law firm, health care
30 provider, chiropractor, physical therapist, or any of such
31 person's employees.

32 *c.* Intentionally advertise false or misleading information
33 regarding the consumer litigation funding company's products
34 or services.

35 *d.* Refer, in furtherance of an initial legal funding, a

1 customer or potential customer to a specific attorney, law
2 firm, health care provider, chiropractor, physical therapist,
3 or any of such person's employees; provided, however, if a
4 customer needs legal representation, the consumer litigation
5 funding company may refer the customer to a local or state bar
6 association referral service.

7 *e.* Knowingly provide funding to a consumer who has
8 previously assigned or sold a portion of the consumer's right
9 to proceeds from a legal claim without first making payment to
10 or purchasing a prior unsatisfied consumer litigation funding
11 company's entire funded amount and contracted charges, unless a
12 lesser amount is otherwise agreed to in writing by the consumer
13 litigation funding company, except that multiple companies may
14 agree to contemporaneously provide consumer litigation funding
15 to a consumer provided that the consumer and the consumer's
16 attorney consent to the arrangement in writing.

17 *f.* Make any decision, have any influence, or direct
18 any decisions with respect to the course of a legal claim,
19 including decisions in appointing or changing counsel, choice
20 or use of expert witnesses, litigation strategy, and settlement
21 or other resolution. The right to make all decisions regarding
22 a legal claim remains solely with the claimant and the
23 claimant's attorney or law firm.

24 *g.* Attempt to obtain a waiver of any remedy or right by the
25 consumer, including but not limited to the right to trial by
26 jury.

27 *h.* Knowingly pay or offer to pay for court costs, filing
28 fees, or attorney fees either during or after the resolution
29 of the legal claim, using funds from the consumer litigation
30 funding transaction.

31 2. Notwithstanding any other provision of law, prepayment
32 penalties or fees shall not be charged or collected in
33 connection with a consumer litigation funding transaction. A
34 prepayment penalty in a consumer litigation funding transaction
35 is unenforceable.

1 3. An attorney or law firm retained by the consumer in a
2 legal claim shall not have a financial interest in the consumer
3 litigation funding company offering consumer litigation funding
4 to that consumer.

5 4. An attorney who has referred the consumer to a retained
6 attorney shall not have a financial interest in the consumer
7 litigation funding company offering consumer litigation funding
8 to that consumer.

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

13 6. A consumer litigation funding company shall not enter
14 into a consumer litigation financing contract directly or
15 indirectly with a foreign entity of concern or a foreign
16 country or person of concern.

17 **Sec. 6. NEW SECTION. 537C.5 Contracted amounts for consumer**
18 **litigation funding.**

19 The contracted amount to be paid to the consumer litigation
20 funding company shall be a predetermined amount based upon
21 intervals of time from the funding date through the resolution
22 date, and shall not be determined as a percentage of the
23 recovery from the legal claim.

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

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

29 2. If a consumer enters into a consumer litigation funding
30 contract after responding to a request pursuant to subsection
31 1, the consumer has a continuing obligation to disclose and
32 shall disclose this fact to the requesting person within thirty
33 days after the consumer enters into the contract.

34 3. Consumer litigation funding contracts, and all
35 participants or parties to the consumer litigation contract,

1 are presumed to be discoverable in a civil proceeding,
2 notwithstanding any agreement or provision with respect
3 to confidentiality. A consumer may seek to rebut this
4 presumption.

5 4. Consumer litigation funding transactions disclosed
6 under subsections 1 and 2 and consumer litigation funding
7 contracts discovered pursuant to subsection 3 are presumed to
8 be inadmissible as evidence. A party may seek to rebut this
9 presumption.

10 Sec. 8. NEW SECTION. 537C.7 Violations of consumer
11 litigation funding requirements.

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

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

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

22 2. This chapter shall not restrict the power of the attorney
23 general.

24 Sec. 9. NEW SECTION. 537C.8 Assignability — liens
25 regarding consumer litigation funding.

26 1. The contingent right to receive an amount of the
27 potential proceeds of a legal claim is assignable by a consumer
28 to a consumer litigation funding company.

29 2. Only attorney's liens related to the legal claim which
30 is the subject of the consumer litigation funding, Medicare,
31 or other statutory liens related to the legal claim shall take
32 priority over any lien of the consumer litigation funding
33 company.

34 Sec. 10. NEW SECTION. 537C.9 Consumer litigation funding
35 privileged communications.

1 Communications between a consumer's attorney and a consumer
2 legal funding company to allow the consumer legal funding
3 company to ascertain the status of a legal claim or a legal
4 claim's expected value shall not be discoverable by a person
5 against whom the legal claim is asserted or filed.

6 Sec. 11. NEW SECTION. 537C.10 Consumer litigation funding
7 and commercial litigation financing registration.

8 1. Unless a consumer litigation funding company or
9 commercial litigation financier has first registered with the
10 state pursuant to this chapter, the company shall not engage in
11 consumer litigation funding or commercial litigation financing
12 agreements in this state.

13 2. An applicant's registration must be filed in the manner
14 prescribed by the secretary of state and must contain all
15 the information required by the secretary of state to make
16 an evaluation of the character and fitness of the applicant
17 company or financier, including but not limited to any
18 beneficial ownership exceeding twenty percent. The initial
19 application must be accompanied by a fee determined by the
20 secretary of state. A renewal registration must include a fee
21 determined by the secretary of state. A registration must be
22 renewed every two years and expires on December 31.

23 3. A certificate of registration shall not be issued unless
24 the secretary of state, upon investigation, finds that the
25 character and fitness of the applicant company or financier,
26 and of the officers and directors thereof, are such as to
27 warrant belief that the business will be operated honestly and
28 fairly within the purposes of this chapter.

29 4. Every registrant shall, at the time of filing such
30 application, file with the secretary of state, if the secretary
31 of state so requires, a bond satisfactory to the secretary
32 of state in an amount not to exceed one hundred thousand
33 dollars. In lieu of the bond at the option of the registrant,
34 the registrant may post an irrevocable letter of credit. The
35 terms of the bond must run concurrent with the period of time

1 during which the registration will be in effect. The bond
2 must provide that the registrant will faithfully conform to
3 and abide by the provisions of this chapter and to all rules
4 lawfully made by the administrator under this chapter and to
5 any such person or persons any and all amounts of money that
6 may become due or owing to the state or to such person or
7 persons from the registrant under and by virtue of this chapter
8 during the period for which the bond is given.

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

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

14 b. The secretary of state has not issued a registration
15 within sixty days after the application for the registration
16 was filed.

17 6. A request for a hearing shall not be made more than
18 fifteen days after the secretary of state has mailed a written
19 notice to the applicant that the application has been denied
20 and stating in substance the secretary of state's findings
21 supporting denial of the application.

22 7. Notwithstanding the prior approval requirement of
23 subsection 1, a consumer litigation funding company or
24 commercial litigation financier that registered with the
25 secretary of state between the effective date of this Act or
26 when the secretary of state has made applications available
27 to the public, whichever is later, and one hundred eighty
28 days thereafter may engage in consumer commercial litigation
29 funding or commercial litigation financing agreements while the
30 company's registration is pending approval with the secretary
31 of state. All consumer litigation funding or commercial
32 litigation financing agreements entered into prior to the
33 effective date of this Act are not subject to the terms of this
34 chapter.

35 8. A person or entity shall not use any form of consumer

1 litigation funding contract or commercial litigation financing
2 agreement in this state unless it has been filed with the
3 secretary of state in accordance with the filing procedures
4 set forth by the secretary of state. Such procedures shall
5 designate a reasonable time frame for the state to raise
6 objections to any filed form.

7 Sec. 12. NEW SECTION. 537C.11 **Commercial litigation**
8 **financing reporting.**

9 1. Each commercial litigation financier that engages
10 in business in the state shall annually submit a report to
11 the secretary of state by December 31 specifying all of the
12 following:

13 *a.* The number of litigation fundings by the company or
14 financier that year.

15 *b.* A summation of funded amounts in dollars that year.

16 *c.* The annual percentage charged to each consumer or
17 commercial litigation funding recipient where repayment was
18 made that year.

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

23 Sec. 13. NEW SECTION. 537C.12 **Prohibitions related to**
24 **commercial litigation funding.**

25 1. A commercial litigation financier shall not enter
26 into a commercial litigation financing agreement directly or
27 indirectly with a foreign entity of concern, a foreign country,
28 or person of concern.

29 2. A claimant, attorney, or law firm representing a
30 claimant, affiliated attorney, or law firm shall not disclose
31 or share any documents or information with a commercial
32 litigation financier where such information is subject to a
33 protective or sealing order from a court.

34 3. A commercial litigation financier shall not make any
35 decision, have any influence, or direct any decisions with

1 transactions.

2 The bill defines "consumer litigation funding" to mean a
3 nonrecourse transaction in which a consumer litigation funding
4 company purchases, and a consumer assigns to the company, a
5 contingent right to receive an amount of the potential proceeds
6 of settlement, judgment, award, or verdict obtained in the
7 consumer's legal claim.

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

31 The bill prohibits consumer litigation funding companies
32 from doing any of the following: (1) paying or offering to pay
33 commissions, referral fees, or other forms of consideration
34 to any person for referring a consumer to the consumer
35 litigation funding company, (2) accepting commissions,

1 referral fees, rebates, or other forms of consideration from
2 an attorney, law firm, health care provider, chiropractor,
3 physical therapist, or any of such person's employees, (3)
4 intentionally advertising false or misleading information
5 regarding the consumer litigation funding company's products
6 or services, (4) referring, in furtherance of an initial
7 legal funding, a customer or potential customer to a specific
8 person, (5) knowingly providing funding to a consumer who has
9 previously assigned or sold a portion of the consumer's right
10 to proceeds from a legal claim without first making payment to
11 or purchasing a prior unsatisfied consumer litigation funding
12 company's entire funded amount and contracted charges, (6)
13 making any decision, having any influence, or directing any
14 decisions with respect to the course of a legal claim, (7)
15 attempting to obtain a waiver of any remedy or right by the
16 consumer, and (8) knowingly paying or offering to pay for court
17 costs, filing fees, or attorney fees using funds from the
18 consumer litigation funding transaction. The bill provides
19 that a consumer litigation funding company shall not enter into
20 a consumer litigation financing contract directly or indirectly
21 with a foreign entity of concern or a foreign country or person
22 of concern, as those terms are defined in the bill.

23 The bill requires that the contracted amount to be paid to
24 the consumer litigation funding company to be a predetermined
25 amount and shall not be determined as a percentage of the
26 recovery from the legal claim.

27 The bill requires that within 30 days of a written request,
28 a consumer shall disclose to any party to a legal claim and
29 each insurer that has a duty to defend whether the consumer
30 has entered into a consumer litigation funding contract. The
31 consumer has an ongoing obligation to disclose a consumer
32 litigation funding contract to such parties if entered
33 into after the initial request. The bill provides that
34 consumer litigation funding contracts, and all participants
35 or parties to the consumer litigation contract, are presumed

1 to be discoverable in a civil proceeding. However, consumer
2 litigation funding transactions disclosed under the bill and
3 consumer litigation funding contracts discovered pursuant to
4 the bill are presumed to be inadmissible as evidence.

5 The bill provides damages and penalties for a violation of a
6 consumer litigation funding requirement.

7 The bill allows the contingent right to receive an amount of
8 the potential proceeds of a legal claim to be assignable by a
9 consumer to a consumer litigation funding company. The bill
10 also provides which liens shall take priority.

11 The bill provides for privileged communications between
12 a consumer's attorney and a consumer legal funding company
13 to allow the consumer legal funding company to ascertain the
14 status of a legal claim.

15 The bill requires the registration of consumer litigation
16 funding companies and commercial litigation financiers with
17 the secretary of state. The bill provides registration
18 requirements and procedures for a consumer litigation funding
19 company or commercial litigation financier. The bill requires a
20 commercial litigation financier or consumer litigation funding
21 company to submit annual reports to the secretary of state.
22 The bill provides that all documents and information filed with
23 the secretary of state pursuant to the registration are public
24 records.

25 The bill prohibits a commercial litigation financier from
26 entering into a commercial litigation financing agreement
27 directly or indirectly with a foreign entity of concern, a
28 foreign country, or person of concern. The bill prohibits
29 a claimant, attorney, or law firm representing a claimant,
30 affiliated attorney, or law firm from disclosing or sharing any
31 documents or information with a commercial litigation financier
32 where such information is subject to a protective or sealing
33 order from a court. The bill further prohibits a commercial
34 litigation financier from making any decision, having any
35 influence, or directing any decisions with respect to the

1 course of a legal claim.

2 The bill authorizes the secretary of state to adopt rules
3 necessary to effectuate the purposes of the bill.

4 The bill applies to any consumer litigation funding,
5 contract, or commercial litigation financing agreement that is
6 effectuated on or after July 1, 2026.