



Testimony of Harrison Hosker
American Legal Finance Association
On
HB 5907
House Committee on Judiciary
3/11/2025

Chairman Craven and members of the House Judiciary Committee, thank you for accepting this testimony. My name is Harrison Hosker, and I am the legislative director at the American Legal Finance Association (ALFA).

ALFA is the nation's oldest and leading trade association, representing the most significant consumer legal funding companies in the United States. One of ALFA's first actions was establishing industry standards for the Consumer Legal Funding industry. The cornerstone of these best practices is transactional transparency and clear and concise contractual agreements for consumers. A condition of membership in ALFA is that members must ascribe to the ALFA Best Practices.

ALFA Best Practices include:

- Prohibiting any of the funds being used for the costs of the litigation or attorney fees
- Prohibiting the funding company from being involved in any decisions relating to the litigation
- Prohibiting funding companies from paying any referral fees
- Prohibiting funding companies from using false or misleading advertising and
- Requiring attorney acknowledgment of all funding.

ALFA shares the same interest as you in protecting consumers who need funds to pay their bills, buy food, or pay any other day-to-day needs while involved in pending litigation. It must be noted that consumer litigation funders DO NOT provide any funds

to cover the cost of litigation, such as attorney fees, court costs, witness fees, or other litigation expenses. Legislation to protect consumers is warranted but must allow continued access to this often-needed funding option.

ALFA, too, desires to establish laws to protect consumers and welcomes working with you to address your concerns. ALFA has led the charge in helping adopt sound consumer protection laws in numerous states, such as Nevada, Utah, Vermont, Oklahoma, Indiana, and Tennessee. ALFA most recently worked with The National Conference of Insurance Legislators to enact their "Transparency in Third Party Litigation Financing Model Act."

While we wholeheartedly support the sponsors' intent to protect Rhode Island consumers, the legislation before you today has the unintended consequence of doing more harm than good for Rhode Islanders. If enacted, this bill would eliminate consumer litigation funding in Rhode Island. As written, this legislation categorizes litigation funding contracts as loans and subjects them to the same state usury laws as defined in the provisions of Chapter 26 of Title 6. These funding transactions are not loans because, unlike loans, they do not have an absolute repayment requirement. In the case of these transactions, they are only repaid if the victim receives funds as a result of their claim. Numerous courts throughout the country, including the Supreme Courts of Minnesota and Georgia and the New York appellate courts, have correctly recognized that because repayment of the principal is entirely contingent on the lawsuit's success, as such litigation funding cannot be categorized as a loan and is not a loan.

The financial risk is entirely on the funding company—12 to 20% of funding results in no recovery or settlement for substantially less than expected. If the plaintiff loses their case, the consumer owes nothing, and the legal funding company loses its money. If the case settles for substantially less than expected, adjustments are made to the obligation. A consumer cannot be required to pay back more than they receive in their case. Thus, consumer legal funding is a nonrecourse funding transaction and not a loan.

The proponents of the legislation aim to eliminate this funding option for consumers, and they know that the maximum interest rate of 21%, as defined by Rhode Island usury laws, would do just that. Several years ago, West Virginia, Arkansas, and Montana adopted similar rates. Within months of adoption, ALFA members and other funding companies ceased offering funding in West Virginia, Montana, and Arkansas. The funding market was shut down.

I ask you, Chairman, and members of this committee if that is what you want for Rhode Islanders. To eliminate their option to obtain funds to pay for their basic life needs while these victims seek justice for their injuries. If this committee seeks proper consumer protection, we encourage you to consider the laws adopted in Nevada, Utah, Vermont, Oklahoma, Indiana, and Tennessee or the recently adopted NCOIL Model Act. As written, this legislation would effectively eliminate the ability of Rhode Island

consumers to access this crucial lifeline. As we have across the country, ALFA and our members stand ready to work with the committee to adopt consumer protection legislation, allowing this option to be available when needed and not simply eliminating it.

Consumer legal funding provides a lifeline when victims have nowhere else to turn. It enables a plaintiff to obtain the settlement they deserve without being forced to accept an unfair offer. If you have questions or concerns about this industry, the ALFA members and I stand ready to work with you to address those concerns.