AMERICAN LEGAL FINANCE ASSOCIATION

Testimony of Harrison Hosker

American Legal Finance Association

On

HB 7751
House Committee on Judiciary,

2/26/2026

Chairwoman McEntee and members of the House Judiciary Committee, thank you for accepting this written testimony. My name is Harrison Hosker, Legislative Director at American Legal Finance Association (ALFA). ALFA strongly supports the enactment of laws that ensure robust oversight and regulation of consumer litigation funding. However, we must respectfully oppose this legislation as currently written because specific provisions would effectively eliminate access to this critical funding in Rhode Island. We apologize for our absence today, but we look forward to returning to Providence soon.

ALFA is the oldest and most preeminent voice for the consumer legal funding industry, representing the nation's largest companies promoting fair, ethical, and transparent standards across all fifty 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 adherence to the ALFA Best Practices.

ALFA Best Practices include:

- Prohibiting any of the funds from 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 has led the charge to help adopt sound consumer protection laws in numerous states, most recently in New York, as well as in Nevada, Utah, Vermont, Oklahoma, Indiana, and Tennessee. In 2024, ALFA also worked closely with the National Conference of Insurance Legislators to enact its "Transparency in Third Party Litigation Financing Model Act."

We commend Representative Shanley, this committee, and the legislature for taking up this important issue. ALFA, too, desires to establish laws to protect consumers and welcomes working with you to address your concerns. However, we must oppose this legislation as written because several provisions would do more harm than good by preventing Rhode Island victims from accessing this vital financial lifeline by categorizing Consumer Litigation Funding as a loan.

While we wholeheartedly support the sponsors' intent to protect Rhode Island consumers, this legislation would do more harm than good. Simply put, 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 these transactions, the funds are repaid only if the victim receives funds through their claim. Numerous courts throughout the country, including the Supreme Court in Minnesota, the Supreme Court in Georgia, and the New York appellate courts, have correctly recognized that because repayment of the principal is entirely contingent on the lawsuit's success, 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, the obligation is adjusted. Thus, consumer legal funding is a non-recourse transaction, 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% set by Rhode Island usury laws would do just that. Several years ago, West Virginia and Arkansas adopted similar rates. Within months of their adoption, ALFA members and other funding companies involved ceased operations in West Virginia and Arkansas, and no longer provided funds to West Virginia and Arkansas consumers. The funding market was shut down.

If this committee's true goal is proper consumer protection, I strongly encourage you to consider the Consumer Legal Funding Act, which recently became law in New York State. The New York Law goes further than HB 7751 in establishing true consumer protection, including banning referrals and kickbacks, requiring

registration with the state, and mandating clear, transparent contracts. Most importantly, in the New York Law, a first-ever adopted provision ensures that victims receive a guaranteed share of their settlement. This particular provision would accomplish the goal of HB 7751 without incorrectly categorizing this type of funding as a loan.

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.

AMERICAN LEGAL FINANCE ASSOCIATION

Major Court Rulings: Consumer Legal Funding Is Not A Loan

Multiple states have issued major rulings reaffirming that consumer legal funding is not a loan. Below are the key takeaways.

MINNESOTA

Minesota Supreme Court: Maslowski vs. Prospect Funding Partners LLC.

"A repurchase rate in a litigation financing agreement is not subject to Minnesota's usury law, Minn. Stat. § 334.01 (2022), when repayment of the purchase price is contingent upon a recovery in the underlying litigation."

– Minnesota Supreme Court

THE TAKEAWAY:

- In consumer legal funding, the obligation to repay the advanced funds is contingent upon the consumer winning their case.
- This means that a repurchase rate in a litigation financing agreement is not subject to Minnesota's usury law as a loan.

GEORGIA

Georgia Supreme Court: Ruth v. Cherokee Funding

"The provision of funds under an agreement that imposes only an uncertain and contingent repayment obligation is not a 'loan'... such a transaction is better characterized as an 'investment contract.'"

– Georgia Supreme Court

THE TAKEAWAY:

- In consumer legal funding, the obligation to repay the advanced funds is "uncertain and contingent."
- Why? Because the outcomes of lawsuits aren't certain, and whether or not a consumer must repay the funder depends on whether or not they win their case.

NEW YORK

New York Supreme Court, Appellate Division: Cash4Cases v. Brunetti

"Assignment agreements such as the agreement at issue here are not loans, because the repayment of principal is entirely contingent on the success of the underlying lawsuit."

– New York Supreme Court, Appellate Division, First Judicial Department

THE TAKEAWAY:

- In a loan, the "principal," or the amount advanced, is collateralized, and loans must always be repaid.
- Consumers only have to pay back a pre-settlement advance if they win their case. There's no impact on their credit and no collateral required to receive funds.

Why It Matters To Policy Makers

Regulating consumer legal funding as if it were a loan would significantly reduce or eliminate access to this resource, particularly for consumers with a low credit score.

Loans require credit and collateral that many consumers don't have. Consumers qualify for legal funding based on the merits of their case, not their credit history.

ALFA supports comprehensive regulation of the consumer legal funding industry. We are committed to working with policymakers to protect consumers and preserve access to pre-settlement advances, which help level the playing field in our justice system.