

1                   A bill to be entitled  
2           An act relating to litigation financing; providing a  
3           short title; designating ss. 69.011-69.081, F.S., as  
4           part I of ch. 69, F.S.; creating part II of ch. 69,  
5           F.S., relating to litigation financing; creating s.  
6           69.101, F.S.; providing definitions; creating s.  
7           69.103, F.S.; requiring a court's consideration of  
8           potential conflicts of interest which may arise from  
9           the existence of a litigation financing agreement in  
10          specified circumstances; creating s. 69.105, F.S.;  
11          prohibiting specified acts by litigation financiers;  
12          creating s. 69.107, F.S.; requiring certain  
13          disclosures related to litigation financing agreements  
14          and the involvement of foreign persons, foreign  
15          principals, or sovereign wealth funds; providing for  
16          discovery related to litigation financing agreements;  
17          creating s. 69.109, F.S.; requiring the  
18          indemnification of specified fees, costs, and  
19          sanctions by a litigation financier in specified  
20          circumstances; creating s. 69.111, F.S.; providing  
21          that a litigation financing agreement is void in  
22          specified circumstances; providing for enforcement of  
23          specified violations under the Florida Deceptive and  
24          Unfair Trade Practices Act; providing severability;  
25          providing applicability; providing an effective date.

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Be It Enacted by the Legislature of the State of Florida:

Section 1. This act may be cited as the "Litigation Investment Safeguards and Transparency Act."

Section 2. Sections 69.011, 69.021, 69.031, 69.041, 69.051, 69.061, 69.071, and 69.081, Florida Statutes, are designated as part I of chapter 69, Florida Statutes, and entitled "General Provisions."

Section 3. Part II of chapter 69, Florida Statutes, consisting of ss. 69.101, 69.103, 69.105, 69.107, 69.109, and 69.111, Florida Statutes, is created to read:

PART II

LITIGATION FINANCING

69.101 Definitions.—As used in this part, the term:

(1) "Foreign person" means a person or an entity that is not:

(a) A citizen of the United States;

(b) An alien lawfully admitted for permanent residence in the United States;

(c) An unincorporated association, a majority of members of which are citizens of the United States or aliens lawfully admitted for permanent residence in the United States; or

(d) A corporation that is incorporated in the United

51 States.

52 (2) "Foreign principal" means:

53 (a) The government or a government official of any country  
 54 other than the United States;

55 (b) A political subdivision or political party of a  
 56 country other than the United States; or

57 (c) A partnership, association, corporation, organization,  
 58 or other combination of persons organized under the laws of or  
 59 having its principal place of business in a country other than  
 60 the United States whose shares or other ownership interest is  
 61 owned by the government or a government official of a country  
 62 other than the United States or owned by a political subdivision  
 63 or political party of a country other than the United States.

64 (3) "Health care practitioner" has the same meaning as  
 65 provided in s. 456.001.

66 (4) "Litigation financier" means a person engaged in the  
 67 business of providing litigation financing.

68 (5) "Litigation financing agreement" or "litigation  
 69 financing" means a transaction in which a litigation financier  
 70 agrees to provide financing to a person who is a party to or  
 71 counsel of record for a civil action, administrative proceeding,  
 72 claim, or other legal proceeding in exchange for a right to  
 73 receive payment, which right is contingent in any respect on the  
 74 outcome of such action, claim, or proceeding or on the outcome  
 75 of any matter within a portfolio that includes such action,

76 claim, or proceeding and involves the same counsel or affiliated  
77 counsel. However, the terms do not apply to:

78 (a) An agreement wherein funds are provided for or to a  
79 party to a civil action, administrative proceeding, claim, or  
80 other legal proceeding for such person's use in paying his or  
81 her costs of living or other personal or familial expenses  
82 during the pendency of such action, claim, or proceeding and  
83 where such funds are not used to finance any litigation or other  
84 legal costs.

85 (b) An agreement wherein an attorney consents to provide  
86 legal services on a contingency fee basis or to advance his or  
87 her client's legal costs, and where such services or costs are  
88 provided by the attorney in accordance with the Florida Rules of  
89 Professional Conduct.

90 (c) An entity with a preexisting contractual obligation to  
91 indemnify or defend a party to a civil action, administrative  
92 proceeding, claim, or other legal proceeding.

93 (d) A health insurer that has paid, or is obligated to  
94 pay, any sums for health care for an injured person under the  
95 terms of a health insurance plan or agreement.

96 (e) The repayment of a financial institution, as defined  
97 in s. 655.005, for loans made directly to a party to a civil  
98 action, administrative proceeding, claim, or other legal  
99 proceeding or such party's attorney when repayment of the loan  
100 is not contingent upon the outcome of such action, claim, or

101 proceeding or on the outcome of any matter within a portfolio  
102 that includes such action, claim, or proceeding and involves the  
103 same counsel or affiliated counsel.

104 (f) Funding provided to a nonprofit legal organization  
105 funded by private donors that represents clients on a pro bono,  
106 no-cost basis, if the nonprofit legal organization seeks only  
107 injunctive relief on behalf of its clients. This part does not  
108 affect the award of costs or attorney fees to a nonprofit legal  
109 organization in the pro bono, no-cost pursuit of injunctive  
110 relief.

111 (6) "National security interests" means those interests  
112 relating to the national defense, foreign intelligence and  
113 counterintelligence, international, and domestic security, and  
114 foreign relations.

115 (7) "Proprietary information" means information developed,  
116 created, or discovered by a person, or which became known by or  
117 was conveyed to the person, which has commercial value in the  
118 person's business. The term includes, but is not limited to,  
119 domain names, trade secrets, copyrights, ideas, techniques,  
120 inventions, regardless of whether patentable, and other  
121 information of any type relating to designs, configurations,  
122 documentation, recorded data, schematics, circuits, mask works,  
123 layouts, source code, object code, master works, master  
124 databases, algorithms, flow charts, formulae, works of  
125 authorship, mechanisms, research, manufacture, improvements,

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126 assembly, installation, intellectual property including patents  
127 and patent applications, and information concerning the person's  
128 actual or anticipated business, research, or development or  
129 received in confidence by or for the person from any other  
130 source.

131 (8) "Sovereign wealth fund" means an investment fund owned  
132 or controlled by a foreign principal or an agent thereof.

133 69.103 Litigation financing agreement; representation of  
134 client interests.—A court may take the existence of a litigation  
135 financing agreement into account:

136 (1) In a class action lawsuit brought in the courts of  
137 this state when determining whether a class representative or  
138 class counsel would adequately and fairly represent the  
139 interests of the class.

140 (2) In actions involving a common question of law or fact  
141 pending before the court which may be or have been consolidated  
142 when determining whether the lead counsel or any co-lead counsel  
143 would adequately and fairly represent the interests of the  
144 parties to such actions.

145 69.105 Prohibited conduct.—A litigation financier may not:

146 (1) Direct, or make any decisions with respect to, the  
147 course of any civil action, administrative proceeding, claim, or  
148 other legal proceeding for which the litigation financier has  
149 provided financing, or any settlement or other disposition  
150 thereof. This prohibition includes, but is not limited to,

151 decisions in appointing or changing counsel, choice or use of  
152 expert witnesses, and litigation strategy. All rights to make  
153 decisions with respect to the course and settlement or other  
154 disposition of the subject civil action, administrative  
155 proceeding, claim, or other legal proceeding remain solely with  
156 the parties to such action, claim, or proceeding and their  
157 counsel of record.

158 (2) Contract for or receive, whether directly or  
159 indirectly, a larger share of the proceeds of a civil action,  
160 administrative proceeding, claim, or other legal proceeding  
161 financed by a litigation financing agreement than the share of  
162 the proceeds collectively recovered by the plaintiffs to any  
163 such action, claim, or proceeding after the payment of any  
164 attorney fees and costs owed in connection to such action,  
165 claim, or proceeding.

166 (3) Pay or offer to pay a commission, referral fee, or  
167 other consideration to any person, including an attorney, law  
168 firm, or health care practitioner, for referring a person to the  
169 litigation financier.

170 (4) Assign or securitize a litigation financing agreement  
171 in whole or in part.

172 (5) Be assigned rights to or in a civil action,  
173 administrative proceeding, claim, or other legal proceeding for  
174 which the litigation financier provided financing, other than  
175 the right to receive a share of the proceeds of such action,

176 claim, or proceeding pursuant to the litigation financing  
 177 agreement.

178 69.107 Required disclosures; discovery obligations.—

179 (1) An attorney who enters into a litigation financing  
 180 agreement must disclose the existence and deliver a copy of the  
 181 agreement to the client he or she represents in the civil  
 182 action, administrative proceeding, claim, or other legal  
 183 proceeding financed by the agreement within 30 days after being  
 184 retained as counsel by such client, or within 30 days after  
 185 entering into the litigation financing agreement, whichever is  
 186 earlier.

187 (2) Except as otherwise stipulated to by the parties to a  
 188 civil action, administrative proceeding, claim, or other legal  
 189 proceeding, or as otherwise ordered by a court of competent  
 190 jurisdiction, a party to or counsel of record for a civil  
 191 action, administrative proceeding, claim, or other legal  
 192 proceeding who enters into a litigation financing agreement with  
 193 respect to such action, claim, or proceeding must, without  
 194 awaiting a discovery request and within 30 days after  
 195 commencement of such action, claim, or proceeding, disclose the  
 196 existence and deliver to the following parties a copy of the  
 197 litigation financing agreement:

198 (a) All parties to the civil action, administrative  
 199 proceeding, claim, or other legal proceeding.

200 (b) The court, agency, or tribunal in which the civil



201 action, administrative proceeding, claim, or other legal  
202 proceeding is pending.

203 (c) Any known person, including an insurer, with a  
204 preexisting contractual obligation to indemnify or defend a  
205 party to the civil action, administrative proceeding, claim, or  
206 other legal proceeding.

207 (3) In addition to complying with subsections (1) and (2),  
208 the class counsel of a putative class in a class action lawsuit  
209 for which litigation financing is obtained must disclose to the  
210 following persons the existence of any legal, financial, or  
211 other relationship between the class counsel and the litigation  
212 financier that exists separate and apart from the litigation  
213 financing agreement itself within 30 days after commencement of  
214 such action or of the execution of the litigation financing  
215 agreement, whichever is earlier:

216 (a) All parties to the civil action, administrative  
217 proceeding, claim, or other legal proceeding.

218 (b) The court, agency, or tribunal in which the civil  
219 action, administrative proceeding, claim, or other legal  
220 proceeding is pending.

221 (c) Any known person, including an insurer, with a  
222 preexisting contractual obligation to indemnify or defend a  
223 party to the civil action, administrative proceeding, claim, or  
224 other legal proceeding.

225 (4) The class counsel in a class action or putative class

226 action lawsuit for which litigation financing is obtained must,  
227 upon the request of a class member, disclose and deliver a copy  
228 of the litigation financing agreement to the class member.

229 (5) In addition to complying with subsections (1) and (2),  
230 the lead counsel and co-lead counsel, if any, for civil actions  
231 consolidated in the courts of this state must disclose to the  
232 following parties the existence of and deliver a copy of any  
233 litigation financing agreement entered into in connection with  
234 any of the consolidated actions:

235 (a) All parties to the consolidated civil actions.

236 (b) The court, agency, or tribunal in which the civil  
237 actions are pending.

238 (c) Any known person, including an insurer, with a  
239 preexisting contractual obligation to indemnify or defend a  
240 party to the civil actions.

241 (6)(a) A party to a civil action, administrative  
242 proceeding, claim, or other legal proceeding, or such party's  
243 counsel of record, must, except as otherwise stipulated to by  
244 the parties to such action, claim, or proceeding, or as  
245 otherwise ordered by a court of competent jurisdiction, disclose  
246 as prescribed in paragraph (b) the name, address, and  
247 citizenship or country of incorporation or registration of any  
248 foreign person, foreign principal, or sovereign wealth fund  
249 that, with respect to the action, claim, or proceeding:

250 1. Obtained or will obtain a right to receive any payment

251 that is contingent in any respect on the outcome of such civil  
252 action, administrative proceeding, claim, or other legal  
253 proceeding, or on the outcome of any matter within a portfolio  
254 that includes such civil action, administrative proceeding,  
255 claim, or other legal proceeding and involves the same counsel  
256 or affiliated counsel;

257 2. Provided or will provide funds, whether directly or  
258 indirectly, which funds have been or will be used to satisfy any  
259 term of a litigation financing agreement into which the party or  
260 the party's counsel of record has entered to finance such civil  
261 action, administrative proceeding, claim, or other legal  
262 proceeding; or

263 3. Has received or is entitled to receive proprietary  
264 information or information affecting national security interests  
265 obtained as a result of the financing of such civil action,  
266 administrative proceeding, claim, or other legal proceeding by a  
267 litigation financing agreement entered into by the party or the  
268 party's counsel of record.

269 (b) The disclosures required in paragraph (a) must be made  
270 to the following persons:

271 1. All parties to the civil action, administrative  
272 proceeding, claim, or other legal proceeding.

273 2. The court, agency, or tribunal in which the civil  
274 action, administrative proceeding, claim, or other legal  
275 proceeding is pending.

276       3. Any known person, including an insurer, with a  
277 preexisting contractual obligation to indemnify or defend a  
278 party to the civil action, administrative proceeding, claim, or  
279 other legal proceeding.

280       4. The Department of Financial Services.

281       5. The Office of the Attorney General.

282       (7) The fact of the existence of a litigation financing  
283 agreement and the identities of all parties to the agreement are  
284 discoverable in any civil action, administrative proceeding,  
285 claim, or other legal proceeding financed by such an agreement,  
286 unless the court, for good cause shown, determines otherwise.

287       (8) The disclosure obligations in this section are ongoing  
288 obligations. Thus, when a party to a civil action,  
289 administrative proceeding, claim, or other legal proceeding, or  
290 his or her counsel of record:

291       (a) Enters into or amends a litigation financing agreement  
292 after the commencement of such action, claim, or proceeding, the  
293 party or attorney has 30 days after the date of entering into or  
294 amending the litigation financing agreement to comply with the  
295 disclosure obligations established herein.

296       (b) Obtains information on the involvement of a foreign  
297 person, foreign principal, or sovereign wealth fund after the  
298 commencement of such action, claim, or proceeding, which  
299 involvement would require disclosure under this section, the  
300 party or attorney has 30 days after the date of obtaining the

301 information to comply with the disclosure obligations  
302 established herein.

303 69.109 Indemnification by litigation financiers.—In any  
304 litigation financing agreement, the litigation financier must  
305 agree to indemnify the plaintiffs to the civil action,  
306 administrative proceeding, claim, or other legal proceeding  
307 funded in the agreement and such plaintiffs' counsel of record  
308 against any adverse costs, attorney fees, damages, or sanctions  
309 that may be ordered or awarded against such persons in such  
310 action, claim, or proceeding. However, indemnification is not  
311 required for those adverse costs, attorney fees, damages, or  
312 sanctions that the litigation financier can show resulted from  
313 the intentional misconduct of such plaintiffs or plaintiffs'  
314 counsel of record.

315 69.111 Violations; enforcement.—

316 (1) A litigation financing agreement executed in violation  
317 of this part is void and unenforceable.

318 (2) A violation of s. 69.105 or s. 69.109 is a deceptive  
319 and unfair trade practice actionable under part II of chapter  
320 501.

321 (3) A court, agency, or tribunal of competent jurisdiction  
322 may impose fines or any other sanction it deems appropriate upon  
323 any person who violates s. 69.107.

324 Section 4. If any provision of this act or its application  
325 to any person or circumstance is held invalid, the invalidity

326 does not affect other provisions or applications of the act  
327 which can be given effect without the invalid provision or  
328 application, and to this end the provisions of this act are  
329 severable.

330 Section 5. The disclosure requirements in s. 69.107,  
331 Florida Statutes, as created by this act apply to any civil  
332 action, administrative proceeding, claim, or other legal  
333 proceeding pending or commenced on or after July 1, 2024. Any  
334 party to or counsel of record for a civil action, administrative  
335 proceeding, claim, or other legal proceeding pending on July 1,  
336 2024, who would have been required to make a disclosure under s.  
337 69.107, Florida Statutes, had it been in effect at the time the  
338 relevant action occurred must make the disclosure under that  
339 section within 30 days after July 1, 2024. Failure to do so is  
340 sanctionable as provided in s. 69.111, Florida Statutes.

341 Section 6. Except as otherwise provided herein, this act  
342 applies to a litigation financing agreement entered into on or  
343 after July 1, 2024.

344 Section 7. This act shall take effect July 1, 2024.