



336640

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/08/2024	.	
	.	
	.	
	.	

The Committee on Fiscal Policy (Collins) recommended the following:

Senate Amendment (with title amendment)

Delete lines 104 - 302

and insert:

(f) Funding provided to a nonprofit organization, provided the nonprofit organization uses the funding to seek only injunctive or equitable relief, whether as a party or on behalf of a client or member of the organization, and irrespective of whether the nonprofit organization seeks an award of costs or attorney fees in providing pro bono representation.



336640

11 (g) Funding provided by a nonprofit organization exempt
12 from federal income tax under s. 501(c)(3) of the United States
13 Internal Revenue Code, by grant or otherwise, to support the
14 pursuit of pro bono, no-cost litigation.

15 (6) "National security interests" means those interests
16 relating to the national defense, foreign intelligence and
17 counterintelligence, international, and domestic security, and
18 foreign relations.

19 (7) "Proprietary information" means information developed,
20 created, or discovered by a person, or which became known by or
21 was conveyed to the person, which has commercial value in the
22 person's business. The term includes, but is not limited to,
23 domain names, trade secrets, copyrights, ideas, techniques,
24 inventions, regardless of whether patentable, and other
25 information of any type relating to designs, configurations,
26 documentation, recorded data, schematics, circuits, mask works,
27 layouts, source code, object code, master works, master
28 databases, algorithms, flow charts, formulae, works of
29 authorship, mechanisms, research, manufacture, improvements,
30 assembly, installation, intellectual property including patents
31 and patent applications, and information concerning the person's
32 actual or anticipated business, research, or development or
33 received in confidence by or for the person from any other
34 source.

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

37 69.103 Litigation financing agreement; representation of
38 client interests.—A court may take the existence of a litigation
39 financing agreement into account:



336640

40 (1) In a class action lawsuit brought in the courts of this
41 state when determining whether a class representative or class
42 counsel would adequately and fairly represent the interests of
43 the class.

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

49 69.105 Prohibited conduct.—A litigation financier may not:

50 (1) Direct, or make any decisions with respect to, the
51 course of any civil action, administrative proceeding, claim, or
52 other legal proceeding for which the litigation financier has
53 provided financing, or any settlement or other disposition
54 thereof. This prohibition includes, but is not limited to,
55 decisions in appointing or changing counsel, choice or use of
56 expert witnesses, and litigation strategy. All rights to make
57 decisions with respect to the course and settlement or other
58 disposition of the subject civil action, administrative
59 proceeding, claim, or other legal proceeding remain solely with
60 the parties to such action, claim, or proceeding and their
61 counsel of record.

62 (2) Contract for or receive, whether directly or
63 indirectly, a larger share of the proceeds of a civil action,
64 administrative proceeding, claim, or other legal proceeding
65 financed by a litigation financing agreement than the share of
66 the proceeds collectively recovered by the plaintiffs to any
67 such action, claim, or proceeding after the payment of any
68 attorney fees and costs owed in connection to such action,



336640

69 claim, or proceeding.

70 (3) Pay or offer to pay a commission, referral fee, or
71 other consideration to any person, including an attorney, law
72 firm, or health care practitioner, for referring a person to the
73 litigation financier.

74 (4) Assign or securitize a litigation financing agreement
75 in whole or in part.

76 (5) Be assigned rights to or in a civil action,
77 administrative proceeding, claim, or other legal proceeding for
78 which the litigation financier provided financing, other than
79 the right to receive a share of the proceeds of such action,
80 claim, or proceeding pursuant to the litigation financing
81 agreement.

82 69.107 Required disclosures; discovery obligations.—

83 (1) An attorney who enters into a litigation financing
84 agreement must disclose the existence and deliver a copy of the
85 agreement to the client he or she represents in the civil
86 action, administrative proceeding, claim, or other legal
87 proceeding financed by the agreement within 30 days after being
88 retained as counsel by such client, or within 30 days after
89 entering into the litigation financing agreement, whichever is
90 earlier.

91 (2) Except as otherwise stipulated to by the parties to a
92 civil action, administrative proceeding, claim, or other legal
93 proceeding, or as otherwise ordered by a court of competent
94 jurisdiction, a party to or counsel of record for a civil
95 action, administrative proceeding, claim, or other legal
96 proceeding who enters into a litigation financing agreement with
97 respect to such action, claim, or proceeding must, without



336640

98 awaiting a discovery request and within 30 days after
99 commencement of such action, claim, or proceeding, disclose the
100 existence and deliver to the following parties a copy of the
101 litigation financing agreement:

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

104 (b) The court, agency, or tribunal in which the civil
105 action, administrative proceeding, claim, or other legal
106 proceeding is pending.

107 (c) Any known person, including an insurer, with a
108 preexisting contractual obligation to indemnify or defend a
109 party to the civil action, administrative proceeding, claim, or
110 other legal proceeding.

111 (3) In addition to complying with subsections (1) and (2),
112 the class counsel of a putative class in a class action lawsuit
113 for which litigation financing is obtained must disclose to the
114 following persons the existence of any legal, financial, or
115 other relationship between the class counsel and the litigation
116 financier that exists separate and apart from the litigation
117 financing agreement itself within 30 days after commencement of
118 such action or of the execution of the litigation financing
119 agreement, whichever is earlier:

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

122 (b) The court, agency, or tribunal in which the civil
123 action, administrative proceeding, claim, or other legal
124 proceeding is pending.

125 (c) Any known person, including an insurer, with a
126 preexisting contractual obligation to indemnify or defend a



336640

127 party to the civil action, administrative proceeding, claim, or
128 other legal proceeding.

129 (4) The class counsel in a class action or putative class
130 action lawsuit for which litigation financing is obtained must,
131 upon the request of a class member, disclose and deliver a copy
132 of the litigation financing agreement to the class member.

133 (5) In addition to complying with subsections (1) and (2),
134 the lead counsel and co-lead counsel, if any, for civil actions
135 consolidated in the courts of this state must disclose to the
136 following parties the existence of and deliver a copy of any
137 litigation financing agreement entered into in connection with
138 any of the consolidated actions:

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

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

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

145 (6) (a) A party to a civil action, administrative
146 proceeding, claim, or other legal proceeding, or such party's
147 counsel of record, must, except as otherwise stipulated to by
148 the parties to such action, claim, or proceeding, or as
149 otherwise ordered by a court of competent jurisdiction, disclose
150 as prescribed in paragraph (b) the name, address, and
151 citizenship or country of incorporation or registration of any
152 foreign person, foreign principal, or sovereign wealth fund
153 that, with respect to the action, claim, or proceeding:

154 1. Obtained or will obtain a right to receive any payment
155 that is contingent in any respect on the outcome of such civil



336640

156 action, administrative proceeding, claim, or other legal
157 proceeding, or on the outcome of any matter within a portfolio
158 that includes such civil action, administrative proceeding,
159 claim, or other legal proceeding and involves the same counsel
160 or affiliated counsel;

161 2. Provided or will provide funds, whether directly or
162 indirectly, which funds have been or will be used to satisfy any
163 term of a litigation financing agreement into which the party or
164 the party's counsel of record has entered to finance such civil
165 action, administrative proceeding, claim, or other legal
166 proceeding; or

167 3. Has received or is entitled to receive proprietary
168 information or information affecting national security interests
169 obtained as a result of the financing of such civil action,
170 administrative proceeding, claim, or other legal proceeding by a
171 litigation financing agreement entered into by the party or the
172 party's counsel of record.

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

175 1. All parties to the civil action, administrative
176 proceeding, claim, or other legal proceeding.

177 2. The court, agency, or tribunal in which the civil
178 action, administrative proceeding, claim, or other legal
179 proceeding is pending.

180 3. Any known person, including an insurer, with a
181 preexisting contractual obligation to indemnify or defend a
182 party to the civil action, administrative proceeding, claim, or
183 other legal proceeding.

184 4. The Department of Financial Services.



336640

185 5. The Office of the Attorney General.

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

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

195 (a) Enters into or amends a litigation financing agreement
196 after the commencement of such action, claim, or proceeding, the
197 party or attorney has 30 days after the date of entering into or
198 amending the litigation financing agreement to comply with the
199 disclosure obligations established herein.

200 (b) Obtains information on the involvement of a foreign
201 person, foreign principal, or sovereign wealth fund after the
202 commencement of such action, claim, or proceeding, which
203 involvement would require disclosure under this section, the
204 party or attorney has 30 days after the date of obtaining the
205 information to comply with the disclosure obligations
206 established herein.

207 (9) (a) A party, or the party's counsel, who is required to
208 disclose a copy of the litigation financing agreement under
209 subsection (2) or subsection (5) may redact from the agreement
210 the dollar amounts being financed. Another party may petition
211 the circuit court in the county where the civil action,
212 administrative proceeding, claim, or other legal proceeding is
213 pending to:



336640

214 1. Dispute the extent of such redactions if information
215 other than the dollar amounts being financed has been improperly
216 redacted from the agreement; or

217 2. Show cause that the dollar amounts being financed should
218 be disclosed.

219 (b) In the case of such petition, the party or counsel
220 disclosing the agreement shall submit an unredacted copy of the
221 agreement to the court for inspection in camera. If the court
222 finds that information other than the dollar amounts being
223 financed has been improperly redacted from the agreement or that
224 cause has been shown to disclose the dollar amounts being
225 financed, the court must order that such information be
226 disclosed to all parties to whom the agreement must be
227 disclosed.

228
229 ===== T I T L E A M E N D M E N T =====

230 And the title is amended as follows:

231 Between lines 16 and 17

232 insert:

233 authorizing certain parties, or their counsel, who are
234 required to disclose a copy of the litigation
235 financing to redact the dollar amounts being financed;
236 providing a method for another party to petition the
237 court to dispute such redactions; requiring the party
238 disclosing the agreement to submit an unredacted copy
239 of the agreement to the court for inspection in camera
240 to make certain determinations;