

By the Committee on Fiscal Policy; and Senator Collins

594-03087-24

20241276c1

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.

26
27 Be It Enacted by the Legislature of the State of Florida:

28
29 Section 1. This act may be cited as the "Litigation

594-03087-24

20241276c1

30 Investment Safeguards and Transparency Act.”

31 Section 2. Sections 69.011, 69.021, 69.031, 69.041, 69.051,
32 69.061, 69.071, and 69.081, Florida Statutes, are designated as
33 part I of chapter 69, Florida Statutes, and entitled “General
34 Provisions.”

35 Section 3. Part II of chapter 69, Florida Statutes,
36 consisting of ss. 69.101, 69.103, 69.105, 69.107, 69.109, and
37 69.111, Florida Statutes, is created to read:

38
39 PART II

40 LITIGATION FINANCING

41 69.101 Definitions.—As used in this part, the term:

42 (1) “Foreign person” means a person or an entity that is
43 not:

44 (a) A citizen of the United States;

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

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

50 (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 country
56 other than the United States; or

57 (c) A partnership, an association, a corporation, an
58 organization, or other combination of persons organized under

594-03087-24

20241276c1

59 the laws of or having its principal place of business in a
60 country other than the United States whose shares or other
61 ownership interest is owned by the government or a government
62 official of a country other than the United States or owned by a
63 political subdivision or political party of a country other than
64 the United States.

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

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

69 (5) "Litigation financing agreement" or "litigation
70 financing" means a transaction in which a litigation financier
71 agrees to provide financing to a person who is a party to or
72 counsel of record for a civil action, administrative proceeding,
73 claim, or other legal proceeding in exchange for a right to
74 receive payment, which right is contingent in any respect on the
75 outcome of such action, claim, or proceeding or on the outcome
76 of any matter within a portfolio that includes such action,
77 claim, or proceeding and involves the same counsel or affiliated
78 counsel. However, the terms do not apply to:

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

86 (b) An agreement wherein an attorney consents to provide
87 legal services on a contingency fee basis or to advance his or

594-03087-24

20241276c1

88 her client's legal costs, and where such services or costs are
89 provided by the attorney in accordance with the Florida Rules of
90 Professional Conduct.

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

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

97 (e) The repayment of a financial institution, as defined in
98 s. 655.005, for loans made directly to a party to a civil
99 action, an administrative proceeding, a claim, or other legal
100 proceeding or such party's attorney when repayment of the loan
101 is not contingent upon the outcome of such action, claim, or
102 proceeding or on the outcome of any matter within a portfolio
103 that includes such action, claim, or proceeding and involves the
104 same counsel or affiliated counsel.

105 (f) Funding provided to a nonprofit organization, provided
106 the nonprofit organization uses the funding to seek relief other
107 than compensatory damages in excess of \$100,000 or punitive
108 damages, whether as a party or on behalf of a client or member
109 of the organization, and irrespective of whether the nonprofit
110 organization seeks an award of costs or attorney fees in
111 providing pro bono representation.

112 (g) Funding provided by a nonprofit organization exempt
113 from federal income tax under s. 501(c)(3) of the United States
114 Internal Revenue Code, by grant or otherwise, to support the
115 pursuit of litigation that does not seek compensatory damages in
116 excess of \$100,000 or punitive damages.

594-03087-24

20241276c1

117 (6) "National security interests" means those interests
118 relating to the national defense, foreign intelligence and
119 counterintelligence, international and domestic security, and
120 foreign relations.

121 (7) "Proprietary information" means information developed,
122 created, or discovered by a person, or which became known by or
123 was conveyed to the person, which has commercial value in the
124 person's business. The term includes, but is not limited to,
125 domain names, trade secrets, copyrights, ideas, techniques,
126 inventions, regardless of whether patentable, and other
127 information of any type relating to designs, configurations,
128 documentation, recorded data, schematics, circuits, mask works,
129 layouts, source code, object code, master works, master
130 databases, algorithms, flow charts, formulae, works of
131 authorship, mechanisms, research, manufacture, improvements,
132 assembly, installation, intellectual property including patents
133 and patent applications, and information concerning the person's
134 actual or anticipated business, research, or development or
135 received in confidence by or for the person from any other
136 source.

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

139 69.103 Litigation financing agreement; representation of
140 client interests.—A court may take the existence of a litigation
141 financing agreement into account:

142 (1) In a class action lawsuit brought in the courts of this
143 state when determining whether a class representative or class
144 counsel would adequately and fairly represent the interests of
145 the class.

594-03087-24

20241276c1

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

151 69.105 Prohibited conduct.—A litigation financier may not:

152 (1) Direct, or make any decisions with respect to, the
153 course of any civil action, administrative proceeding, claim, or
154 other legal proceeding for which the litigation financier has
155 provided financing, or any settlement or other disposition
156 thereof. This prohibition includes, but is not limited to,
157 decisions in appointing or changing counsel, choice or use of
158 expert witnesses, and litigation strategy. All rights to make
159 decisions with respect to the course and settlement or other
160 disposition of the subject civil action, administrative
161 proceeding, claim, or other legal proceeding remain solely with
162 the parties to such action, claim, or proceeding and their
163 counsel of record.

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

172 (3) Pay or offer to pay a commission, referral fee, or
173 other consideration to any person, including an attorney, a law
174 firm, or a health care practitioner, for referring a person to

594-03087-24

20241276c1

175 the litigation financier.

176 (4) Assign or securitize a litigation financing agreement,
177 in whole or in part.

178 (5) Be assigned rights to or in a civil action, an
179 administrative proceeding, a claim, or other legal proceeding
180 for which the litigation financier provided financing, other
181 than the right to receive a share of the proceeds of such
182 action, claim, or proceeding pursuant to the litigation
183 financing agreement.

184 69.107 Required disclosures; discovery obligations.—

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

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

594-03087-24

20241276c1

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

206 (b) The court, agency, or tribunal in which the civil
207 action, administrative proceeding, claim, or other legal
208 proceeding is pending.

209 (c) Any known person, including an insurer, with a
210 preexisting contractual obligation to indemnify or defend a
211 party to the civil action, administrative proceeding, claim, or
212 other legal proceeding.

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

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

224 (b) The court, agency, or tribunal in which the civil
225 action, administrative proceeding, claim, or other legal
226 proceeding is pending.

227 (c) Any known person, including an insurer, with a
228 preexisting contractual obligation to indemnify or defend a
229 party to the civil action, administrative proceeding, claim, or
230 other legal proceeding.

231 (4) The class counsel in a class action or putative class
232 action lawsuit for which litigation financing is obtained must,

594-03087-24

20241276c1

233 upon the request of a class member, disclose and deliver a copy
234 of the litigation financing agreement to the class member.

235 (5) In addition to complying with subsections (1) and (2),
236 the lead counsel and co-lead counsel, if any, for civil actions
237 consolidated in the courts of this state must disclose to the
238 following parties the existence of and deliver a copy of any
239 litigation financing agreement entered into in connection with
240 any of the consolidated actions:

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

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

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

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

256 1. Obtained or will obtain a right to receive any payment
257 that is contingent in any respect on the outcome of such civil
258 action, administrative proceeding, claim, or other legal
259 proceeding, or on the outcome of any matter within a portfolio
260 that includes such civil action, administrative proceeding,
261 claim, or other legal proceeding and involves the same counsel

594-03087-24

20241276c1

262 or affiliated counsel;

263 2. Provided or will provide funds, whether directly or
264 indirectly, which funds have been or will be used to satisfy any
265 term of a litigation financing agreement into which the party or
266 the party's counsel of record has entered to finance such civil
267 action, administrative proceeding, claim, or other legal
268 proceeding; or

269 3. Has received or is entitled to receive proprietary
270 information or information affecting national security interests
271 obtained as a result of the financing of such civil action,
272 administrative proceeding, claim, or other legal proceeding by a
273 litigation financing agreement entered into by the party or the
274 party's counsel of record.

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

277 1. All parties to the civil action, administrative
278 proceeding, claim, or other legal proceeding.

279 2. The court, agency, or tribunal in which the civil
280 action, administrative proceeding, claim, or other legal
281 proceeding is pending.

282 3. Any known person, including an insurer, with a
283 preexisting contractual obligation to indemnify or defend a
284 party to the civil action, administrative proceeding, claim, or
285 other legal proceeding.

286 4. The Department of Financial Services.

287 5. The Office of the Attorney General.

288 (7) The fact of the existence of a litigation financing
289 agreement and the identities of all parties to the agreement are
290 discoverable in any civil action, administrative proceeding,

594-03087-24

20241276c1

291 claim, or other legal proceeding financed by such an agreement,
292 unless the court, for good cause shown, determines otherwise.

293 (8) The disclosure obligations in this section are ongoing
294 obligations. Thus, when a party to a civil action, an
295 administrative proceeding, a claim, or other legal proceeding,
296 or his or her counsel of record:

297 (a) Enters into or amends a litigation financing agreement
298 after the commencement of such action, claim, or proceeding, the
299 party or attorney has 30 days after the date of entering into or
300 amending the litigation financing agreement to comply with the
301 disclosure obligations established herein.

302 (b) Obtains information on the involvement of a foreign
303 person, foreign principal, or sovereign wealth fund after the
304 commencement of such action, claim, or proceeding, which
305 involvement would require disclosure under this section, the
306 party or attorney has 30 days after the date of obtaining the
307 information to comply with the disclosure obligations
308 established herein.

309 (9) (a) A party, or the party's counsel, who is required to
310 disclose a copy of the litigation financing agreement under
311 subsection (2) or subsection (5) may redact from the agreement
312 the dollar amounts being financed. Another party may petition
313 the circuit court in the county where the civil action,
314 administrative proceeding, claim, or other legal proceeding is
315 pending to:

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

319 2. Show cause that the dollar amounts being financed should

594-03087-24

20241276c1

320 be disclosed.

321 (b) In the case of such petition, the party or counsel
322 disclosing the agreement shall submit an unredacted copy of the
323 agreement to the court for inspection in camera. If the court
324 finds that information other than the dollar amounts being
325 financed has been improperly redacted from the agreement or that
326 cause has been shown to disclose the dollar amounts being
327 financed, the court must order that such information be
328 disclosed to all parties to whom the agreement must be
329 disclosed.

330 69.109 Indemnification by litigation financiers.—In any
331 litigation financing agreement, the litigation financier must
332 agree to indemnify the plaintiffs to the civil action,
333 administrative proceeding, claim, or other legal proceeding
334 funded in the agreement and such plaintiffs' counsel of record
335 against any adverse costs, attorney fees, damages, or sanctions
336 that may be ordered or awarded against such persons in such
337 action, claim, or proceeding. However, indemnification is not
338 required for those adverse costs, attorney fees, damages, or
339 sanctions that the litigation financier can show resulted from
340 the intentional misconduct of such plaintiffs or plaintiffs'
341 counsel of record.

342 69.111 Violations; enforcement.—

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

345 (2) A violation of s. 69.105 or s. 69.109 is a deceptive
346 and unfair trade practice actionable under part II of chapter
347 501.

348 (3) A court, an agency, or a tribunal of competent

594-03087-24

20241276c1

349 jurisdiction may impose fines or any other sanction it deems
350 appropriate upon any person who violates s. 69.107.

351 Section 4. If any provision of this act or its application
352 to any person or circumstance is held invalid, the invalidity
353 does not affect other provisions or applications of the act
354 which can be given effect without the invalid provision or
355 application, and to this end the provisions of this act are
356 severable.

357 Section 5. The disclosure requirements in s. 69.107,
358 Florida Statutes, as created by this act apply to any civil
359 action, administrative proceeding, claim, or other legal
360 proceeding pending or commenced on or after July 1, 2024. Any
361 party to or counsel of record for a civil action, an
362 administrative proceeding, a claim, or other legal proceeding
363 pending on July 1, 2024, who would have been required to make a
364 disclosure under s. 69.107, Florida Statutes, had it been in
365 effect at the time the relevant action occurred must make the
366 disclosure under that section within 30 days after July 1, 2024.
367 Failure to do so is sanctionable as provided in s. 69.111,
368 Florida Statutes.

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

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