

By Senator Collins

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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.; defining terms; creating s. 69.103,
7 F.S.; requiring courts to consider potential conflicts
8 of interest which may arise from the existence of a
9 litigation financing agreement in specified
10 circumstances; creating s. 69.105, F.S.; prohibiting
11 specified acts by litigation financiers; creating s.
12 69.107, F.S.; requiring certain disclosures related to
13 litigation financing agreements and the involvement of
14 foreign persons, foreign principals, or sovereign
15 wealth funds; providing for discovery related to
16 litigation financing agreements; creating s. 69.109,
17 F.S.; requiring a litigation financier to indemnify
18 the plaintiffs against specified fees, costs, and
19 sanctions in specified circumstances; creating s.
20 69.111, F.S.; providing that a litigation financing
21 agreement is void and unenforceable in specified
22 circumstances; providing for enforcement of specified
23 violations under the Florida Deceptive and Unfair
24 Trade Practices Act; authorizing a court, an agency,
25 or a tribunal of competent jurisdiction to impose
26 fines or other sanctions it deems appropriate for
27 violations of s. 69.107, F.S.; providing severability;
28 providing retroactive applicability; providing
29 applicability; providing an effective date.

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31 Be It Enacted by the Legislature of the State of Florida:
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33 Section 1. This act may be cited as the "Litigation
34 Investment Safeguards and Transparency Act."

35 Section 2. Sections 69.011, 69.021, 69.031, 69.041, 69.051,
36 69.061, 69.071, and 69.081, Florida Statutes, are designated as
37 part I of chapter 69, Florida Statutes, and entitled "General
38 Provisions."

39 Section 3. Part II of chapter 69, Florida Statutes,
40 consisting of ss. 69.101, 69.103, 69.105, 69.107, 69.109, and
41 69.111, Florida Statutes, is created to read:

42
43 PART II

44 LITIGATION FINANCING

45 69.101 Definitions.—As used in this part, the term:

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

48 (a) A citizen of the United States;

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

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

54 (d) A corporation incorporated in the United States.

55 (2) "Foreign principal" means:

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

58 (b) A political subdivision or political party of a country

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59 other than the United States; or

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

68 (3) "Health care practitioner" has the same meaning as in
69 s. 456.001.

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

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

83 (a) An agreement wherein funds are provided for or to a
84 party to a civil action, an administrative proceeding, a claim,
85 or other legal proceeding for such person's use in paying his or
86 her costs of living or other personal or familial expenses
87 during the pendency of such action, claim, or proceeding and

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88 where such funds are not used to finance any litigation or other
89 legal costs.

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

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

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

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

109 (f) Funding provided to a nonprofit organization, exempt
110 from federal income tax under s. 501(c)(3) of the United States
111 Internal Revenue Code, provided that the nonprofit organization
112 uses the funding only to provide pro bono legal representation
113 on behalf of a client or engage in litigation on behalf of
114 itself, its members, or a client and does not seek punitive
115 damages, regardless of whether the nonprofit organization seeks
116 an award of costs or attorney fees.

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117 (g) Funding provided by a nonprofit organization exempt
118 from federal income tax under s. 501(c)(3) of the United States
119 Internal Revenue Code, by grant or otherwise, to cover the costs
120 and expenses of pro bono legal representation or litigation that
121 does not seek punitive damages, regardless of whether the
122 recipient of the funding seeks an award of costs or attorney
123 fees. The nonprofit organization may, contingent upon the
124 outcome of the litigation, receive repayment not to exceed the
125 amount of funding provided.

126 (6) "National security interests" means those interests
127 relating to the national defense, foreign intelligence and
128 counterintelligence, international and domestic security, or
129 foreign relations.

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

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

148 69.103 Litigation financing agreement; representation of
149 client interests; potential conflicts of interest.—A court may
150 take the existence of a litigation financing agreement into
151 account:

152 (1) In a class action lawsuit brought in the courts of this
153 state when determining whether a class representative or class
154 counsel would adequately and fairly represent the interests of
155 the class.

156 (2) In actions involving a common question of law or fact
157 pending before the court which may be or has been consolidated
158 when determining whether the lead counsel or any co-lead counsel
159 would adequately and fairly represent the interests of the
160 parties to such actions.

161 69.105 Prohibited conduct.—A litigation financier may not:

162 (1) Direct, or make any decisions with respect to, the
163 course of any civil action, administrative proceeding, claim, or
164 other legal proceeding for which the litigation financier has
165 provided financing, or any settlement or other disposition
166 thereof. This prohibition includes, but is not limited to,
167 decisions in appointing or changing counsel, choice or use of
168 expert witnesses, and litigation strategy. All rights to make
169 decisions with respect to the course and settlement or other
170 disposition of the subject civil action, administrative
171 proceeding, claim, or other legal proceeding remain solely with
172 the parties to such action, claim, or proceeding and their
173 counsel of record.

174 (2) Contract for or receive, whether directly or

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175 indirectly, a larger share of the proceeds of a civil action, an
176 administrative proceeding, a claim, or other legal proceeding
177 financed by a litigation financing agreement than the share of
178 the proceeds collectively recovered by the plaintiffs to any
179 such action, claim, or proceeding after the payment of any
180 attorney fees and costs owed in connection to such action,
181 claim, or proceeding.

182 (3) Pay or offer to pay a commission, referral fee, or
183 other consideration to any person, including an attorney, a law
184 firm, or a health care practitioner, for referring a person to
185 the litigation financier.

186 (4) Assign or securitize a litigation financing agreement,
187 in whole or in part.

188 (5) Be assigned rights to or in a civil action, an
189 administrative proceeding, a claim, or other legal proceeding
190 for which the litigation financier provided financing, other
191 than the right to receive a share of the proceeds of such
192 action, claim, or proceeding pursuant to the litigation
193 financing agreement.

194 69.107 Required disclosures; discovery obligations.—

195 (1) An attorney who enters into a litigation financing
196 agreement must disclose the existence and deliver a copy of the
197 agreement to the client he or she represents in the civil
198 action, administrative proceeding, claim, or other legal
199 proceeding financed by the agreement within 30 days after being
200 retained as counsel by such client, or within 30 days after
201 entering into the litigation financing agreement, whichever is
202 earlier.

203 (2) Except as otherwise stipulated to by the parties to a

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204 civil action, an administrative proceeding, a claim, or other
205 legal proceeding, or as otherwise ordered by a court of
206 competent jurisdiction, a party to or counsel of record for a
207 civil action, an administrative proceeding, a claim, or other
208 legal proceeding who enters into a litigation financing
209 agreement with respect to such action, claim, or proceeding
210 must, without awaiting a discovery request and within 30 days
211 after commencement of such action, claim, or proceeding,
212 disclose the existence of and deliver to the following parties a
213 copy of the litigation financing agreement:

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

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

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

223 (3) In addition to complying with subsections (1) and (2),
224 the class counsel of a putative class in a class action lawsuit
225 for which litigation financing is obtained shall disclose to the
226 following persons the existence of any legal, financial, or
227 other relationship between the class counsel and the litigation
228 financier which exists separate and apart from the litigation
229 financing agreement itself within 30 days after commencement of
230 such action or of the execution of the litigation financing
231 agreement, whichever is earlier:

232 (a) All parties to the civil action, administrative

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233 proceeding, claim, or other legal proceeding.

234 (b) The court, agency, or tribunal in which the civil
235 action, administrative proceeding, claim, or other legal
236 proceeding is pending.

237 (c) Any known person, including an insurer, with a
238 preexisting contractual obligation to indemnify or defend a
239 party to the civil action, administrative proceeding, claim, or
240 other legal proceeding.

241 (4) The class counsel in a class action or putative class
242 action lawsuit for which litigation financing is obtained shall,
243 upon the request of a class member, disclose and deliver a copy
244 of the litigation financing agreement to the class member.

245 (5) In addition to complying with subsections (1) and (2),
246 the lead counsel and co-lead counsel, if any, for civil actions
247 consolidated in the courts of this state shall disclose to the
248 following parties the existence and deliver a copy of any
249 litigation financing agreement entered into in connection with
250 any of the consolidated actions:

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

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

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

257 (6) (a) A party to a civil action, an administrative
258 proceeding, a claim, or other legal proceeding, or such party's
259 counsel of record, must, except as otherwise stipulated to by
260 the parties to such action, claim, or proceeding, or as
261 otherwise ordered by a court of competent jurisdiction, disclose

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262 as prescribed in paragraph (b) the name, address, and
263 citizenship or country of incorporation or registration of any
264 foreign person, foreign principal, or sovereign wealth fund
265 that, with respect to the action, claim, or proceeding:

266 1. Obtained or will obtain a right to receive any payment
267 that is contingent in any respect on the outcome of such civil
268 action, administrative proceeding, claim, or other legal
269 proceeding, or on the outcome of any matter within a portfolio
270 that includes such action, claim, or proceeding and involves the
271 same counsel or affiliated counsel;

272 2. Provided or will provide funds, whether directly or
273 indirectly, which funds have been or will be used to satisfy any
274 term of a litigation financing agreement into which the party or
275 the party's counsel of record has entered to finance such civil
276 action, administrative proceeding, claim, or other legal
277 proceeding; or

278 3. Received or is entitled to receive proprietary
279 information or information affecting national security interests
280 obtained as a result of the financing of such civil action,
281 administrative proceeding, claim, or other legal proceeding by a
282 litigation financing agreement entered into by the party or the
283 party's counsel of record.

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

286 1. All parties to the civil action, administrative
287 proceeding, claim, or other legal proceeding.

288 2. The court, agency, or tribunal in which the civil
289 action, administrative proceeding, claim, or other legal
290 proceeding is pending.

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291 3. Any known person, including an insurer, with a
292 preexisting contractual obligation to indemnify or defend a
293 party to the civil action, administrative proceeding, claim, or
294 other legal proceeding.

295 4. The Department of Financial Services.

296 5. The Office of the Attorney General.

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

302 (8) The disclosure obligations in this section are ongoing
303 obligations. When a party to a civil action, an administrative
304 proceeding, a claim, or other legal proceeding, or his or her
305 counsel of record:

306 (a) Enters into or amends a litigation financing agreement
307 after the commencement of such action, claim, or proceeding, the
308 party or attorney has 30 days after the date of entering into or
309 amending the litigation financing agreement to comply with the
310 disclosure obligations established in this section.

311 (b) Obtains information on the involvement of a foreign
312 person, foreign principal, or sovereign wealth fund after the
313 commencement of such action, claim, or proceeding, which
314 involvement would require the disclosure obligations in this
315 section, the party or counsel has 30 days after the date of
316 obtaining the information to comply with the disclosure
317 obligations established in this section.

318 (9) (a) A party, or the party's counsel, who is required to
319 disclose a copy of the litigation financing agreement under

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320 subsection (2) or subsection (5) may redact from the agreement
321 the dollar amounts being financed. Another party may petition
322 the circuit court in the county where the civil action,
323 administrative proceeding, claim, or other legal proceeding is
324 pending to:

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

328 2. Show cause that the dollar amounts being financed should
329 be disclosed.

330 (b) In the case of a petition under paragraph (a), the
331 party or counsel disclosing the agreement shall submit an
332 unredacted copy of the agreement to the court for inspection in
333 camera. If the court finds that information other than the
334 dollar amounts being financed has been improperly redacted from
335 the agreement or that cause has been shown to disclose the
336 dollar amounts being financed, the court must order that such
337 information be disclosed to all parties to whom the agreement
338 must be disclosed.

339 69.109 Indemnification by litigation financiers.—In any
340 litigation financing agreement, the litigation financier must
341 agree to indemnify the plaintiffs to the civil action,
342 administrative proceeding, claim, or other legal proceeding
343 funded in the agreement and such plaintiffs' counsel of record
344 against any adverse costs, attorney fees, damages, or sanctions
345 that may be ordered or awarded against such persons in such
346 action, claim, or proceeding. However, indemnification is not
347 required for those adverse costs, attorney fees, damages, or
348 sanctions that the litigation financier can show resulted from

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349 the intentional misconduct of such plaintiffs or plaintiffs'
350 counsel of record.

351 69.111 Violations; enforcement.—

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

354 (2) A violation of s. 69.105 or s. 69.109 is a deceptive
355 and unfair trade practice actionable under part II of chapter
356 501.

357 (3) A court, an agency, or a tribunal of competent
358 jurisdiction may impose fines or any other sanction it deems
359 appropriate upon any person who violates s. 69.107.

360 Section 4. If any provision of this act or its application
361 to any person or circumstance is held invalid, the invalidity
362 does not affect other provisions or applications of the act
363 which can be given effect without the invalid provision or
364 application, and to this end the provisions of this act are
365 severable.

366 Section 5. The disclosure requirements in s. 69.107,
367 Florida Statutes, as created by this act, apply to any civil
368 action, administrative proceeding, claim, or other legal
369 proceeding pending or commenced on or after July 1, 2025. Any
370 party to or counsel of record for a civil action, an
371 administrative proceeding, a claim, or other legal proceeding
372 pending on July 1, 2025, who would have been required to make a
373 disclosure under s. 69.107, Florida Statutes, had it been in
374 effect at the time the relevant action occurred must make the
375 disclosure under that section within 30 days after July 1, 2025.
376 Failure to do so is sanctionable as provided in s. 69.111,
377 Florida Statutes.

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378 Section 6. Except as otherwise provided herein, this act
379 applies to a litigation financing agreement entered into on or
380 after July 1, 2025.

381 Section 7. This act shall take effect July 1, 2025.