

2012 -- S 2517

=====
LC00968
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

—————
A N A C T

RELATING TO COURTS AND CIVIL PROCEDURE -- LITIGATION LENDING
AGREEMENTS

Introduced By: Senators McCaffrey, and Lynch

Date Introduced: February 16, 2012

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 9 of the General Laws entitled "COURTS AND CIVIL
2 PROCEDURE--PROCEDURE GENERALLY" is hereby amended by adding thereto the
3 following chapter:

4 CHAPTER 3.1

5 LITIGATION LENDING AGREEMENTS

6 **9-3.1-1. Legislative findings.** – The legislature finds and declares that:

7 (1) Litigation financing contracts are being entered into where companies advance money
8 to a litigant in return for payment from litigation proceeds at effective annual interest rates far
9 exceeding state usury limits; and

10 (2) Such contracts often bear annual interest rates over one hundred percent (100%); and

11 (3) Such rates are detrimental to the general welfare of the citizens of this state and it is
12 necessary to enact legislation to insure litigation-funding advances conform to state laws
13 regarding usurious loans.

14 **9-3.1-2. Litigation lending agreement defined.** – A litigation lending agreement
15 ("LLA") is any agreement whereby monies are paid to parties to civil litigation ("litigants") in
16 consideration for a litigant's agreement to repay such monies (with or without interest, one-time
17 charges, use fees, or any other add-on charges) from proceeds of the litigation. Not included in
18 the definition of an LLA are advancements of expenses of litigation made by attorneys on behalf

1 [of their clients, as permitted by rule 1.8\(e\) of the Rhode Island Rules of Professional Conduct.](#)

2 **9-3.1-3. Litigation advances considered loans within usury statute.** – [All payments](#)
3 [made by a litigant under an LLA greater than the amount received by the litigant under the LLA](#)
4 [shall be considered interest on loans within the purview of section 6-26-2 of the general laws,](#)
5 [entitled, “Maximum rate of interest” regardless of:](#)

6 [\(1\) Whether an LLA characterizes itself as a “loan,” an “advance,” an “investment,” an](#)
7 [“assignment of proceeds,” or any other characterization;](#)

8 [\(2\) Whether monies to be repaid under the LLA are called “interest,” “use fees,” or any](#)
9 [other term;](#)

10 [\(3\) Whether the amount received by the litigant under the LLA otherwise exceeds any](#)
11 [monetary limit for loans falling within Rhode Island’s usury statute; and](#)

12 [\(4\) Whether the obligation on the part of the litigant to repay monies is contingent upon](#)
13 [the outcome of the litigation.](#)

14 SECTION 2. This act shall take effect upon passage.

=====
LC00968
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO COURTS AND CIVIL PROCEDURE -- LITIGATION LENDING
AGREEMENTS

- 1 This act would make litigation loan agreements subject to state usury statutes.
- 2 This act would take effect upon passage.

=====
LC00968
=====