

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

A N A C T

RELATING TO COURTS AND CIVIL PROCEDURE -- LITIGATION LENDING AGREEMENTS

Introduced By: Senators McCaffrey, Lombardi, Conley, Nesselbush, and Archambault

Date Introduced: March 02, 2017

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.**

7 The legislature finds and declares that:

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

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

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

15 **9-3.1-2. Litigation lending agreement defined.**

16 A litigation lending agreement (LLA) is any agreement whereby monies are paid to
17 parties to civil litigation (litigants) in consideration for a litigant's agreement to repay such
18 monies (with or without interest, one-time charges, use fees, or any other add-on charges) from

1 proceeds of the litigation. Not included in the definition of an LLA are advancements of expenses
2 of litigation made by attorneys on behalf of their clients, as permitted by rule 1.8(e) of the Rhode
3 Island rules of professional conduct.

4 **9-3.1-3. Litigation advances considered loans within usury statute.**

5 All payments made by a litigant under an LLA greater than the amount received by the
6 litigant under the LLA shall be considered interest on loans within the purview of §6-26-2
7 regardless of:

8 (1) Whether an LLA characterizes itself as a "loan," an "advance," an "investment," an
9 "assignment of proceeds," or any other characterization;

10 (2) Whether monies to be repaid under the LLA are called "interest," "use fees," or any
11 other term;

12 (3) Whether the amount received by the litigant under the LLA otherwise exceeds any
13 monetary limit for loans falling within Rhode Island's usury statute; and

14 (4) Whether the obligation on the part of the litigant to repay monies is contingent upon
15 the outcome of the litigation.

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

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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.

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