

2019 -- H 5477

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2019

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A N A C T

RELATING TO COURTS AND CIVIL PROCEDURE -- PROCEDURE GENERALLY --
LITIGATION LENDING AGREEMENTS

Introduced By: Representatives Craven, Millea, and McEntee

Date Introduced: February 14, 2019

Referred To: House 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 general assembly 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) These contracts often bear annual interest rates which exceed one hundred percent
12 (100%); and

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

16 **9-3.1-2. Litigation lending agreement defined.**

17 A "litigation lending agreement" (LLA) is any agreement whereby monies are paid to
18 parties to civil litigation (litigants) in consideration for a litigant's agreement to repay these

1 monies (with or without interest, one-time charges, use fees, or any other add-on charges) from
2 the proceeds of the litigation. Not included in the definition of an LLA are advancements of
3 expenses of litigation made by attorneys on behalf of their clients, as permitted by rule 1.8(e) of
4 the Rhode Island rules of professional conduct.

5 **9-3.1-3. Litigation advances considered loans pursuant to state usury law.**

6 All payments made by a litigant under an LLA greater than the amount received by the
7 litigant under the LLA shall be considered interest on loans subject to the provisions of chapter 26
8 of title 6 ("interest and usury") regardless of:

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

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

13 (3) Whether the amount received by the litigant under the LLA otherwise exceeds any
14 monetary limit for loans and interest rates falling within the provisions of chapter 26 of title 6;
15 and

16 (4) Whether the obligation on the part of the litigant to repay monies is contingent upon a
17 particular outcome of the litigation.

18 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 -- PROCEDURE GENERALLY --
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- 1 This act would make litigation loan agreements subject to state usury laws.
- 2 This act would take effect upon passage.

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