

By: Hernandez

H.B. No. 3218

A BILL TO BE ENTITLED

AN ACT

relating to litigation financing transactions.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle B, Title 4, Finance Code, is amended by adding Chapter 354 to read as follows:

CHAPTER 354. LITIGATION FINANCING AGREEMENTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 354.001. DEFINITIONS. In this chapter:

(1) "Charge" or "charges" means the amount paid to a litigation financing company by or on behalf of the consumer, in addition to the funded amount provided by or on behalf of the company to a consumer.

(2) "Consumer" means an individual who has a pending legal claim and who:

(A) resides in this state; or

(B) has the legal claim in this state.

(3) "Funded amount" means the amount provided to or on behalf of the consumer under a litigation financing agreement. The term does not include a charge.

(4) "Funding date" means the date on which the litigation financing company:

(A) transfers the funded amount to the consumer by personal delivery or by wire, ACH debit, or other electronic means; or

1           (B) mails the funded amount to the consumer by  
2 insured, certified, or registered United States mail.

3           (5) "Immediate family member" means:

4           (A) a parent, sibling, spouse, grandparent, or  
5 grandchild of an individual; or

6           (B) a child related by blood, adoption, or  
7 marriage to an individual.

8           (6) "Legal claim" includes:

9           (A) a civil action;

10           (B) an alternative dispute resolution  
11 proceeding; or

12           (C) an administrative proceeding before an  
13 agency of this state.

14           (7) "Litigation financing agreement" means an  
15 agreement under which:

16           (A) money is provided to or on behalf of a  
17 consumer by a litigation financing company for a purpose other than  
18 prosecuting the consumer's legal claim; and

19           (B) the repayment of the money is in accordance  
20 with a litigation financing transaction the terms of which are  
21 included as part of the litigation financing agreement.

22           (8) "Litigation financing company" or "company" means  
23 a person that enters into a litigation financing agreement with a  
24 consumer.

25           (9) "Litigation financing transaction" means a  
26 non-recourse transaction in which a litigation financing company  
27 purchases, and a consumer assigns to the company, a contingent

1 right to receive an amount of the potential proceeds of a  
2 settlement, judgment, award, or verdict obtained in the consumer's  
3 legal claim.

4 (10) "Resolution date" means the date on which the sum  
5 of the amount funded to the consumer and the agreed-to charges is  
6 delivered to the litigation financing company.

7 Sec. 354.002. NONAPPLICABILITY OF CHAPTER. Except as  
8 specifically provided by this chapter, this chapter does not apply  
9 to the following persons who enter into a litigation financing  
10 agreement with a consumer:

11 (1) an immediate family member of the consumer;

12 (2) an accountant who provides accounting services to  
13 the consumer; or

14 (3) an attorney who, at the time money is provided to  
15 or on behalf of a consumer under a litigation financing agreement,  
16 has an attorney-client relationship with the consumer concerning  
17 the consumer's legal claim.

18 SUBCHAPTER B. AGREEMENT REQUIREMENTS

19 Sec. 354.051. FORM OF AGREEMENT. (a) A litigation  
20 financing agreement must:

21 (1) be in writing;

22 (2) contain the initials of the consumer on each page;  
23 and

24 (3) be otherwise complete when presented to the  
25 consumer for signature.

26 Sec. 354.052. REQUIRED TERMS; DISCLOSURES. (a) On the  
27 front page of the agreement under appropriate headings, the

1 agreement must disclose:

2 (1) the funded amount to be paid to the consumer by the  
3 litigation financing company;

4 (2) an itemization of one-time charges;

5 (3) the total amount to be assigned by the consumer to  
6 the company, including the funded amount and all charges; and

7 (4) a payment schedule that:

8 (A) includes the funded amount and charges; and

9 (B) lists all dates and the amount due at the end

10 of each 180-day period from the funding date until the due date of  
11 the maximum amount due to the company by the consumer to satisfy the  
12 amount owed under the agreement.

13 SECTION 2. The changes in law made by this Act apply only to  
14 a litigation financing agreement entered into on or after the  
15 effective date of this Act. A litigation financing agreement  
16 entered into before the effective date of this Act is governed by  
17 the law in effect on the date the agreement was entered into, and  
18 the former law is continued in effect for that purpose.

19 SECTION 3. This Act takes effect September 1, 2013.