

By: Hernandez

H.B. No. 584

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 that is 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 transfers or otherwise delivers the funded amount to the consumer.

(5) "Immediate family member" means:

(A) a parent, sibling, spouse, grandparent, or

1 grandchild of an individual; or

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

4 (6) "Legal claim" includes:

5 (A) a civil action;

6 (B) an alternative dispute resolution  
7 proceeding; or

8 (C) an administrative proceeding before an  
9 agency of this state.

10 (7) "Litigation financing agreement" means an  
11 agreement under which:

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

15 (B) the repayment of the money is in accordance  
16 with a litigation financing transaction the terms of which are  
17 included as part of the litigation financing agreement.

18 (8) "Litigation financing company" or "company" means  
19 a person that enters into a litigation financing agreement with a  
20 consumer.

21 (9) "Litigation financing transaction" means a  
22 non-recourse transaction in which a litigation financing company  
23 purchases, and a consumer assigns to the company, a contingent  
24 right to receive an amount of the potential proceeds of a  
25 settlement, judgment, award, or verdict obtained in the consumer's  
26 legal claim.

27 Sec. 354.002. NONAPPLICABILITY OF CHAPTER. Except as

1 specifically provided by this chapter, this chapter does not apply  
2 to the following persons who enter into a litigation financing  
3 agreement with a consumer:

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

5 (2) an accountant who provides accounting services to  
6 the consumer; or

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

11 SUBCHAPTER B. AGREEMENT REQUIREMENTS

12 Sec. 354.051. FORM OF AGREEMENT. A litigation financing  
13 agreement must:

14 (1) be in writing;

15 (2) contain the initials of the consumer on each page;

16 and

17 (3) be otherwise complete when presented to the  
18 consumer for signature.

19 Sec. 354.052. DISCLOSURES. On the front page of the  
20 agreement under appropriate headings, the agreement must disclose:

21 (1) the funded amount to be paid to the consumer by the  
22 litigation financing company;

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

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

26 (4) a payment schedule that:

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

1                   (B) lists all dates and the amount due at the end  
2 of each 180-day period from the funding date until the due date of  
3 the maximum amount due to the company by the consumer to satisfy the  
4 amount owed under the agreement.

5           SECTION 2. The changes in law made by this Act apply only to  
6 a litigation financing agreement entered into on or after the  
7 effective date of this Act. A litigation financing agreement  
8 entered into before the effective date of this Act is governed by  
9 the law in effect on the date the agreement was entered into, and  
10 the former law is continued in effect for that purpose.

11           SECTION 3. This Act takes effect September 1, 2017.