

SLS 22RS-1250

ORIGINAL

2022 Regular Session

SENATE BILL NO. 415

BY SENATOR PEACOCK

LOANS. Creates the Litigation Financing Disclosure Act. (1/1/23)

1 AN ACT

To enact Chapter 2-C of Title 12 of Code of Title 9 of the Louisiana Revised Statutes of
1950, to be comprised of R.S. 9:3580.1 through R.S. 9:3580.6, relative to loans; to provide relative to financial disclosure; to provide relative to the creation of the Litigation Financing Disclosure Act; to provide for definitions, terms, and conditions; to provide for discovery; to provide for contract disclosures; to provide with respect to class action lawsuits; to provide for joint and several liability; to provide for violations and contracts; to provide for an effective date; and to provide for related matters

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. Chapter 2-C of Title 12 of the Louisiana Revised Statutes of 1950,
12 comprised of R.S. 9:3580.1 through R.S. 9:3580.6, is hereby enacted to read as follows:

CHAPTER 2-C. LITIGATION FINANCIAL DISCLOSURE

§3580.1. Short title

This Chapter shall be known and may be cited as the "Litigation
Costing Disclosure Act".

§3580.2. Definitions

1 For the purpose of this Chapter, the following terms have the meanings
2 ascribed to them in this Section, unless a different meaning clearly appear from
3 the context:

4 (1) "Consumer" means any person or entity residing or domiciled in this
5 state or any legal representative of such person or entity.

6 (2) "Legal representative" means an attorney, group of attorneys or law
7 firm who may be entitled to represent a person or persons in a legal dispute in
8 this state.

9 (3) "Litigation financer" means a person, group of persons, or legal
10 entity, engaged in the business of litigation financing or any other economic
11 activity intended to facilitate litigation financing.

12 (4) "Litigation financing" means the funding of a civil claim or action by
13 anyone other than the parties to the claim or action, their counsel, or entities
14 with a preexisting contractual indemnitor or a liability insurer relationship with
15 one of the parties. Litigation financing includes the purchase of bills, accounts
16 or liens, or otherwise paying for or purchasing services rendered related to a
17 claim or action.

18 (5) "Litigation financing transaction" means a transaction in which
19 litigation financing is provided to a consumer, legal representative, or medical
20 provider in return for assigning to the litigation financer a contingent right to
21 receive an amount out of the proceeds of any realized judgment, award,
22 settlement, or verdict the consumer may receive on the underlying claim or
23 action, or agreeing to pay the litigation financer interest, fees, or any other
24 consideration for the financing provided. The term "litigation financing
25 transaction" does not include legal representation services provided to a
26 consumer by a legal representative on a contingency fee basis, or legal costs
27 advanced by a legal representative, where such services or costs are provided
28 to, or on behalf of a consumer by a legal representative in the dispute and in
29 accordance with the Louisiana Rules of Professional Conduct.

1 (6) "Medical provider" means any person or business providing medical
2 services of any kind to a consumer, including but not limited to physicians,
3 nurse practitioners, hospitals, physical therapists, chiropractors, or radiologists,
4 as well as any of their employees, contractors, practice groups, partnerships, or
5 incorporations of the same.

6 §3580.3. Disclosure of financing agreements; discovery

7 A. Except as otherwise stipulated by the parties, or ordered by the court,
8 a consumer or their legal representative shall, without awaiting a discovery
9 request and no later than sixty days after the entry of such agreement, provide
10 to all parties to the litigation, including their insurer if prior to litigation, any
11 litigation financing contract or agreement under which anyone, other than a
12 legal representative permitted to charge a contingent fee representing a party,
13 has received or has a right to receive compensation or proceeds that are
14 contingent on and sourced from any proceeds of the civil action, by settlement,
15 judgment, or otherwise.

16 B. The existence of litigation financing, litigation financing transactions
17 and all participants in such financing arrangements are permissible subjects of
18 discovery in all civil cases, including personal injury litigation or matters arising
19 out of personal injuries.

20 §3580.4. Class action lawsuits

21 This Chapter shall apply to any action filed or certified as a class action.
22 In addition to the disclosure requirements set forth in R.S. 9:3580.3, the legal
23 representative of the putative class shall disclose to all parties, putative class
24 members, and the court any legal, financial, or other relationship between the
25 legal representative and the litigation financer.

26 §3580.5. Joint and several liability

27 A litigation financer is jointly liable for costs assessed by the court
28 relative to the payment or recovery of attorney fees, or any monetary sanction
29 imposed pursuant to the Louisiana Code of Civil Procedure, on the consumer

1 whose claim or action the litigation financer is funding pursuant to a litigation
2 financing transaction.

3 **§3580.6. Violation; unenforceable contract**

4 **Any violation of this Chapter shall make the litigation financing contract**
5 **unenforceable by the litigation financer, the consumer, or any successor-in-**
6 **interest to the litigation financing contract.**

7 Section 2. This Act shall become effective on January 1, 2023.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Lebra R. Bias.

DIGEST
SB 415 Original 2022 Regular Session Peacock

Proposed law creates the Litigation Financing Disclosure Act.

Proposed law provides for definitions of "consumer", "legal representative", "litigation financer", "litigation financing", "litigation financing transaction", and "medical provider".

Proposed law provides that except as otherwise stipulated by the parties or ordered by the court, a consumer or their legal representative shall, without awaiting a discovery request and no later than 60 days after the entry of such agreement, provide to all parties to the litigation, including their insurer if prior to litigation, any litigation financing contract or agreement under which anyone, other than a legal representative permitted to charge a contingent fee representing a party, has received or has a right to receive compensation or proceeds that are contingent on and sourced from any proceeds of the civil action, by settlement, judgment, or otherwise. Proposed law further provides that the existence of litigation financing, litigation financing transactions and all participants in such financing arrangements are permissible subjects of discovery in all civil cases, including personal injury litigation or matters arising out of personal injuries.

Proposed law, relative to class action suits, provides that in addition to the disclosure requirements set forth in proposed law, the legal representative of the putative class shall disclose to all parties, putative class members, and the court any legal, financial, or other relationship between the legal representative and the litigation financer.

Proposed law provides that a litigation financer is jointly liable for costs assessed by the court relative to the payment or recovery of attorney fees, or any monetary sanction imposed pursuant to the present law, on the consumer whose claim or action the litigation financer is funding pursuant to a litigation financing transaction.

Proposed law provides that any violation of proposed law shall make the litigation financing contract unenforceable by the litigation financer, the consumer, or any successor-in-interest to the litigation financing contract.

Proposed law provides that proposed law shall become effective on January 1, 2023.

(Adds R.S. 9:3580.1-3580.6)