

**HOUSE COMMITTEE AMENDMENTS**

2024 Regular Session

Amendments proposed by House Committee on Civil Law and Procedure to Reengrossed Senate Bill No. 355 by Senator Stine

1 AMENDMENT NO. 1

2 On page 1, line 2, after "2-C" and before "of the" change "of Title 12" to "of Code Title XII  
3 of Code Book III of Title 9"

4 AMENDMENT NO. 2

5 On page 1, line 3, after the comma "," and before "relative" insert "and to enact Chapter 2-D  
6 of Code Title XII of Code Book III of Title 9 of the Louisiana Revised Statutes of 1950, to  
7 be comprised of R.S. 9:3580.10 through 3580.14,"

8 AMENDMENT NO. 3

9 On page 1, line 10, after "reports;" and before "to provide relative" insert "to provide relative  
10 to the creation of the Litigation Financing Disclosure Act; to provide for discovery; to  
11 provide with respect to class action lawsuits;"

12 AMENDMENT NO. 4

13 On page 1, line 13, after "2-C" and before "of the" change "of Title 12" to "of Code Title XII  
14 of Code Book III of Title 9"

15 AMENDMENT NO. 5

16 On page 1, line 14, after "R.S. 9:3580.7," and before "hereby" delete "is" and insert "and  
17 Chapter 2-D of Code Title XII of Code Book III of Title 9 of the Louisiana Revised Statutes  
18 of 1950, to be comprised of R.S. 9:3580.10 through 3580.14, are"

19 AMENDMENT NO. 6

20 On page 7, between lines 23 and 24, insert the following:

21 **"CHAPTER 2-D. LITIGATION FINANCING DISCLOSURE**  
 22 **§3580.10. Short title**  
 23 **This Chapter shall be known and may be cited as the "Litigation**  
 24 **Financing Disclosure Act".**  
 25 **§3580.11. Definitions**  
 26 **For the purpose of this Chapter, the following terms have the meanings**  
 27 **ascribed to them in this Section:**  
 28 **(1) "Attorney" means an attorney, group of attorneys, or law firm who**  
 29 **may be entitled to represent a person or persons in a civil action in this state.**  
 30 **(2) "Litigation financier" means a person, group of persons, or legal**  
 31 **entity, engaged in the business of litigation financing or any other economic**  
 32 **activity intended to facilitate litigation financing. Litigation financier does not**  
 33 **include nonprofit legal organizations.**  
 34 **(3)(a) "Litigation financing" means the financing, funding, advancing,**  
 35 **or lending of money to pay for fees, costs, expenses, or an agreement to pay**  
 36 **expenses directly related to pursuing the legal claim, administrative proceeding,**  
 37 **claim, or cause of action if the financing, funding, advancing, or lending of**  
 38 **money is provided by any person other than a person who is any of the**  
 39 **following:**

1 (i) A party to the civil action, administrative proceeding, claim, or cause  
 2 of action.

3 (ii) An attorney engaged directly or indirectly through another legal  
 4 representative to represent a party in the civil action, administrative  
 5 proceeding, claim, or cause of action.

6 (iii) An entity or insurer with a preexisting contractual obligation to  
 7 indemnify or defend a party to the civil action, administrative proceeding,  
 8 claim, or cause of action or a health insurer which has paid, or is obligated to  
 9 pay, any sums for health care for an injured person under the terms of any  
 10 health insurance plan or agreement.

11 (b) Funds provided directly to a party solely for personal needs shall not  
 12 be considered litigation financing if such funds are provided exclusively for  
 13 personal and family use and not for legal filings, legal document preparation  
 14 and drafting, appeals, creation of a litigation strategy, drafting testimony, and  
 15 related litigation expenses.

16 (4) "Litigation financing contract or agreement" means a transaction  
 17 in which litigation financing is provided to a party or a party's attorney in  
 18 return for assigning to the litigation financier a right to receive an amount  
 19 including payment of interest, fees, or any other consideration contingent in any  
 20 respect on the outcome of the underlying claim or action. The term "litigation  
 21 financing contract or agreement" does not include:

22 (a) Legal services provided to a party by an attorney on a contingency  
 23 fee basis or legal costs advanced by an attorney when such services or costs are  
 24 provided to or on behalf of a party by an attorney in the dispute and in  
 25 accordance with the Louisiana Rules of Professional Conduct.

26 (b) The bills, receivables, or liens held by a healthcare provider or their  
 27 assignee.

28 (c) Secured or unsecured loans made directly to a party or a party's  
 29 attorney when repayment of the loan is not contingent upon the judgment,  
 30 award, settlement, or verdict in a claim or action.

31 (d) Funding provided by a nonprofit organization exempt from federal  
 32 income tax under Section 501(c)(3) of the United States Internal Revenue Code  
 33 by grant or otherwise.

34 (5) "Party" means any person or entity or any attorney retained to  
 35 represent such person or entity in an underlying civil action.

36 (6) "Proprietary information" shall mean information developed,  
 37 created, or discovered by a party which became known by or was conveyed to  
 38 the party which has commercial value in the party's business. "Proprietary  
 39 information" shall include but not be limited to domain names, trade secrets,  
 40 copyrights, ideas, techniques, inventions, whether patentable or not, and any  
 41 other information of any type relating to designs, configurations,  
 42 documentation, recorded data, schematics, circuits, mask works, layouts, source  
 43 code, object code, master works, master databases, algorithms, flow charts,  
 44 formulae, works of authorship, mechanisms, research, manufacture,  
 45 improvements, assembly, installation, intellectual property including patents  
 46 and patent applications, and the information concerning the entity's actual or  
 47 anticipated business, research or development, or which is received in  
 48 confidence by or for the entity from any other source."

49 §3580.12. Disclosure of financing agreements; discovery

50 A.(1) Except as otherwise stipulated by the parties or ordered by the  
 51 court, a party or a party's attorney shall without awaiting a discovery request  
 52 and upon the later of sixty days after the commencement of a civil action or  
 53 sixty days after execution of the litigation financing agreement, provide to all  
 54 parties to the litigation, including their insurer if prior to litigation, any  
 55 litigation financing contract or agreement under which anyone, other than an  
 56 attorney permitted to charge a contingent fee representing a party, has received  
 57 or has a right to receive the following:

58 (a) Compensation or proceeds that are contingent on and sourced from  
 59 any proceeds of the civil action, by settlement, judgment, or otherwise.

1                   **(b) Proprietary information obtained as a result of the civil action.**  
 2                   **(2) The party or the party's attorney may redact the total dollar amount**  
 3 **of litigation financing contractually agreed to between the party and the**  
 4 **litigation financier prior to the production of the litigation financing contract to**  
 5 **all other parties to the litigation.**  
 6                   **B. A litigation financier shall not decide, influence, or direct the plaintiff**  
 7 **or the plaintiff's attorney with respect to the conduct of the underlying civil**  
 8 **proceeding or any settlement or resolution of the civil proceeding, or make any**  
 9 **decision with respect to the conduct of the underlying civil proceeding or any**  
 10 **settlement or resolution of the civil proceeding. The right to make these**  
 11 **decisions remains solely with the plaintiff and the plaintiff's attorney in the civil**  
 12 **proceeding.**  
 13                   **C. The existence of litigation financing, litigation financing contracts or**  
 14 **agreements, and all participants in such financing arrangements are permissible**  
 15 **subjects of discovery in all civil actions including personal injury litigation or**  
 16 **claims arising out of personal injuries.**  
 17                   **D. This Chapter shall not apply to nonprofit legal organizations funded**  
 18 **by private donors that represent clients on a pro bono basis. Awards of costs or**  
 19 **attorney fees to nonprofit legal organizations shall not be affected by this**  
 20 **Chapter. This Chapter shall not be interpreted to require a nonprofit legal**  
 21 **organization to disclose its donors or sources of funding.**  
 22 **§3580.13. Class action lawsuits**  
 23                   **This Chapter shall apply to any action filed or certified as a class action.**  
 24 **In addition to the disclosure requirements set forth in R.S. 9:3580.3, the**  
 25 **attorney of the putative class shall disclose to all parties, putative class**  
 26 **members, and the court any legal, financial, or other relationship between the**  
 27 **attorney and the litigation financier.**  
 28 **§3580.14. Violation; absolute nullity of contract**  
 29                   **Any litigation financing contract in violation of this Chapter shall be an**  
 30 **absolute nullity."**