

HB 628 -- CONSUMER LEGAL FUNDING AND LITIGATION FINANCING

SPONSOR: Christofanelli

CONSUMER LEGAL FUNDING (Sections 436.550 to 436.570 and 436.581, RSMo)

This bill creates the "Consumer Legal Funding Model Act" and contains several definitional terms including "Consumer legal funding contract" in which a consumer legal funding company purchases and a consumer assigns to the company a contingent right to receive moneys from the settlement, judgment, award, or verdict from a consumer's legal claim. The bill details the requirements to be included in the contract, which is not considered to be a loan. The company must provide the consumer's attorney with written notice of the contract provided to the consumer within three business days of the funding date. The contract is valid for a period of 48 months.

The bill details actions that cannot be taken by the company such as paying or offering to pay or accepting commissions, referral fees, or other forms of consideration from an attorney, medical provider, etc. or intentionally advertising false or misleading information; or receiving any right to or make decisions relating to the conduct of the underlying legal claim or resolution thereof.

The bill provides for disclosures to be included in the contract which are regarded as material terms of the contract. This bill specifies the written language to be contained in the body of the contract. The consumer legal funding contract shall be voided if a court with jurisdiction finds that a company intentionally violated the provisions of this section of the bill.

The bill does not restrict the Attorney General's powers or performance of duties. The company must be registered according to the standards developed by the Division of Finance within the Department of Commerce and Insurance and the bill details provisions relating to denial of applications for registration.

This bill also makes it unlawful for any person or entity to operate as a consumer legal funding provider in this state except as authorized by the Consumer Legal Funding Model Act once it is enacted. However, any company that has a license in good standing under the current system shall be entitled to make consumer legal fundings, as long as that company files an application for a consumer legal funding license, for 60 days or until the Division approves or denies the application for a funding license, whichever is sooner.

LITIGATION FINANCING (Sections 436.571 to 436.580)

This bill requires all civil litigation financing to meet certain specified requirements. "Litigation financing" is the funding of litigation activities by entities other than the parties themselves or their counsel. A "litigation financing transaction" is defined as financing provided to a consumer in return for the consumer assigning a contingent right to receive moneys from the settlement, judgment, award, or verdict from a consumer's legal claim.

This bill applies to any class action but does not apply to litigation financing provided to commercial enterprises for litigation strictly between commercial enterprises.

A litigation financier must be registered with the Secretary of State's Office (SOS) and meet the requirements included in the bill, including the posting of a surety bond of not less than \$50,000. In addition, the litigation financier shall file annual reports with the SOS as stated in the bill. The SOS shall release the report and summary to the public after redacting personally identifying information of any consumer.

The bill details actions that cannot be taken by the litigation financier such as paying or offering to pay or accepting commissions, referral fees, or other forms of consideration from an attorney, medical provider, etc. or intentionally advertising false or misleading information; or receiving any right to or make decisions relating to the conduct of the underlying legal claim or resolution thereof. The written contract must be completely filled in. The bill provides for disclosures to be included in the contract which are regarded as material terms of the contract. In addition, the existence of litigation financing arrangements are subject to discovery in personal injury litigation.

The practice of litigation financing is regulated by the Division of Finance and any violation make the contract unenforceable by the parties or any successor-in-interest.

This bill is the same as HB 2771 (2022).