

PROPOSED
HOUSE OF REPRESENTATIVES AMENDMENTS TO S.B. 1215
(Reference to Senate engrossed bill)

Amendment instruction key:
[GREEN UNDERLINING IN BRACKETS] indicates text added to statute or previously enacted session law.
[Green underlining in brackets] indicates text added to new session law or text restoring existing law.
[GREEN STRIKEOUT IN BRACKETS] indicates new text removed from statute or previously enacted session law.
[Green strikeout in brackets] indicates text removed from existing statute, previously enacted session law or new session law.
<<Green carets>> indicate a section added to the bill.
<<Green strikeout in carets>> indicates a section removed from the bill.

1 The bill as proposed to be amended is reprinted as follows:

2 Section 1. Title 12, Arizona Revised Statutes, is amended by adding
3 chapter 28, to read:

4 CHAPTER 28
5 LITIGATION FINANCING
6 ARTICLE 1. GENERAL PROVISIONS

7 12-3451. Definitions

8 IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

9 1. "ACTION" MEANS A CIVIL ACTION, ADMINISTRATIVE PROCEEDING, CLAIM
10 OR OTHER CAUSE OF ACTION.

11 2. "FOREIGN COUNTRY OF CONCERN" INCLUDES THE FOLLOWING:

12 (a) A FOREIGN GOVERNMENT LISTED IN 15 CODE OF FEDERAL REGULATIONS
13 SECTION 791.4.

14 (b) A COUNTRY DESIGNATED AS A THREAT TO CRITICAL INFRASTRUCTURE BY
15 THE FEDERAL GOVERNMENT OR THE GOVERNOR.

16 3. "FOREIGN ENTITY OF CONCERN" MEANS A PARTNERSHIP, ASSOCIATION,
17 CORPORATION, ORGANIZATION OR OTHER COMBINATION OF PERSONS THAT MEETS ANY
18 OF THE FOLLOWING:

19 (a) IS ORGANIZED OR INCORPORATED IN A FOREIGN COUNTRY OF CONCERN.

20 (b) IS OWNED OR CONTROLLED BY THE GOVERNMENT, A POLITICAL
21 SUBDIVISION OR A POLITICAL PARTY OF A FOREIGN COUNTRY OF CONCERN.

22 (c) HAS A PRINCIPAL PLACE OF BUSINESS IN A FOREIGN COUNTRY OF
23 CONCERN.

24 (d) IS OWNED, ORGANIZED OR CONTROLLED BY OR AFFILIATED WITH A
25 FOREIGN ORGANIZATION THAT HAS EITHER BEEN:

26 (i) PLACED ON THE FEDERAL OFFICE OF FOREIGN ASSETS CONTROL
27 SPECIALLY DESIGNATED NATIONALS AND BLOCKED PERSONS LIST.

1 (ii) DESIGNATED BY THE UNITED STATES SECRETARY OF STATE AS A
2 FOREIGN TERRORIST ORGANIZATION.

3 4. "LICENSED HEALTH CARE PROVIDER" HAS THE SAME MEANING PRESCRIBED
4 IN SECTION 12-561.

5 5. "LITIGATION FINANCIER" MEANS A PERSON THAT HAS ENTERED INTO A
6 LITIGATION FINANCING AGREEMENT WITH A PARTY TO AN ACTION OR COUNSEL OF
7 RECORD FOR A PARTY TO AN ACTION.

8 6. "LITIGATION FINANCING AGREEMENT" OR "LITIGATION FINANCING" MEANS
9 ANY AGREEMENT CREATING A RIGHT TO RECEIVE PAYMENT BY ANYONE WHICH IS
10 CONTINGENT IN ANY RESPECT ON THE OUTCOME OF AN ACTION OR ON THE OUTCOME OF
11 ANY MATTER WITHIN A PORTFOLIO THAT INCLUDES THE ACTION AND THAT INVOLVES
12 THE SAME COUNSEL OR AFFILIATED COUNSEL, BUT EXCLUDING THE FOLLOWING:

13 (a) A NAMED PARTY TO THE ACTION IF PAYMENTS MADE TO THE NAMED PARTY
14 ARE PROVIDED EXCLUSIVELY FOR PERSONAL AND FAMILY USE AND ARE PROVIDED ON
15 CONDITION THAT THEY ARE NOT TO BE USED FOR LEGAL FILINGS, LEGAL DOCUMENT
16 PREPARATION AND DRAFTING, APPEALS, CREATION OF A LITIGATION STRATEGY,
17 DRAFTING TESTIMONY OR OTHER EXPENSES DIRECTLY RELATED TO LITIGATION.

18 (b) A COUNSEL OF RECORD FOR LEGAL SERVICES PROVIDED ON A
19 CONTINGENCY FEE BASIS OR ADVANCED LEGAL COSTS PROVIDED BY COUNSEL OF
20 RECORD, WHERE THE SERVICES OR COSTS ARE PROVIDED BY A LEGAL COUNSEL OF
21 RECORD IN ACCORDANCE WITH THE RULES OF PROFESSIONAL CONDUCT ADOPTED BY THE
22 SUPREME COURT.

23 (c) A PERSON WITH A PREEXISTING CONTRACTUAL OBLIGATION TO INDEMNIFY
24 OR DEFEND A PARTY TO THE ACTION OR A HEALTH INSURER WHO HAS PAID OR IS
25 OBLIGATED TO PAY ANY SUMS FOR HEALTH CARE SERVICES RENDERED TO AN INJURED
26 PERSON UNDER THE TERMS OF A HEALTH INSURANCE POLICY, PLAN OR AGREEMENT.

27 (d) A FINANCIAL INSTITUTION, AS DEFINED IN SECTION 6-101, FOR
28 REPAYMENT OF LOANS MADE DIRECTLY TO A PARTY OR A PARTY'S COUNSEL WHEN
29 REPAYMENT OF THE LOAN IS NOT CONTINGENT ON THE OUTCOME OF AN ACTION BY
30 SETTLEMENT, JUDGMENT OR OTHERWISE OR ON THE OUTCOME OF ANY MATTER WITHIN A
31 PORTFOLIO THAT INCLUDES THE ACTION AND INVOLVES THE SAME COUNSEL OR
32 AFFILIATED COUNSEL.

33 (e) FUNDING THAT IS PROVIDED TO A NONPROFIT ORGANIZATION, WHETHER
34 AS A PARTY OR ON BEHALF OF A CLIENT OR MEMBER OF THE ORGANIZATION, AND
35 IRRESPECTIVE OF WHETHER THE NONPROFIT ORGANIZATION SEEKS AN AWARD OF COSTS
36 OR ATTORNEY FEES IN PROVIDING PRO BONO REPRESENTATION.

37 (f) FUNDING PROVIDED BY A NONPROFIT ORGANIZATION THAT IS EXEMPT
38 FROM TAXATION UNDER 501(c)(3) OF THE UNITED STATES INTERNAL REVENUE CODE,
39 BY GRANT OR OTHERWISE, TO SUPPORT THE PURSUIT OF LITIGATION.

40 (g) A PERSON PROVIDING FUNDING TO A MEDICAL PRACTICE OR FACILITY
41 SOLELY FOR ITS RECEIVABLES.

42 [(h) WHERE THERE IS NO RIGHT TO PAYMENT IN EXCESS OF THE FUNDING
43 ACTUALLY PROVIDED.]

44 12-3452. Preserving consumer control and recoveries

1 A. A LITIGATION FINANCIER MAY NOT DIRECT OR MAKE ANY DECISIONS WITH
2 RESPECT TO THE COURSE OF ANY ACTION THAT IS SUBJECT TO A LITIGATION
3 FINANCING AGREEMENT OR ANY SETTLEMENT OR OTHER DISPOSITION THEREOF,
4 INCLUDING DECISIONS CONCERNING APPOINTING OR CHANGING COUNSEL, CHOICE OF
5 OR USE OF EXPERT WITNESSES AND LITIGATION STRATEGY. THE NAMED PARTY AND
6 COUNSEL OF RECORD SHALL RETAIN ALL RIGHTS TO CONTROL AND DECISION-MAKING
7 WITH REGARD TO THE ACTION.

8 B. IN A CLASS ACTION LITIGATION, THE COURT SHALL CONSIDER THE
9 EXISTENCE OF LITIGATION FINANCING AND ANY RELATED CONFLICTS OF INTEREST
10 WHEN DETERMINING WHETHER A CLASS REPRESENTATIVE OR CLASS COUNSEL WOULD
11 ADEQUATELY AND FAIRLY REPRESENT THE INTERESTS OF THE CLASS.

12 C. IN MULTIDISTRICT LITIGATION, THE COURT SHALL CONSIDER THE
13 EXISTENCE OF LITIGATION FINANCING AND ANY RELATED CONFLICTS OF INTEREST
14 WHEN APPROVING OR APPOINTING COUNSEL TO LEADERSHIP POSITIONS. FOR THE
15 PURPOSES OF THIS SUBSECTION, "LEADERSHIP POSITIONS" MEANS ANY LEAD
16 COUNSEL, COLEAD COUNSEL, COMMON BENEFIT COUNSEL, STEERING COMMITTEE
17 MEMBERSHIP, EXECUTIVE COMMITTEE MEMBERSHIP AND OTHER SIMILAR POSITIONS OR
18 ROLES.

19 12-3453. Prohibited conduct

20 A. A LITIGATION FINANCIER MAY NOT PAY OR OFFER TO PAY A COMMISSION,
21 REFERRAL FEE OR OTHER CONSIDERATION TO LEGAL COUNSEL, A LAW FIRM OR A
22 LICENSED HEALTH CARE PROVIDER, FOR REFERRING A PERSON TO THE LITIGATION
23 FINANCIER.

24 B. A LITIGATION FINANCIER MAY NOT PROVIDE FUNDING TO OR IN
25 CONNECTION WITH A LITIGATION FINANCING AGREEMENT THAT IS DIRECTLY OR
26 INDIRECTLY FINANCED BY A FOREIGN ENTITY OF CONCERN.

27 12-3454. Required disclosures

28 A. EXCEPT AS OTHERWISE STIPULATED OR ORDERED BY A COURT OF
29 COMPETENT JURISDICTION, A PARTY TO AN ACTION OR THE PARTY'S COUNSEL OF
30 RECORD, WITHOUT AWAITING A DISCOVERY REQUEST AND WITHIN THIRTY DAYS AFTER
31 COMMENCEMENT OF THE ACTION, SHALL DISCLOSE TO EACH OTHER PARTY TO THE
32 ACTION AND TO ANY KNOWN PERSON, INCLUDING AN INSURER, WITH A PREEXISTING
33 CONTRACTUAL OBLIGATION TO INDEMNIFY OR DEFEND A PARTY TO THE ACTION THE
34 FOLLOWING INFORMATION:

35 1. WHETHER THE PARTY OR ITS COUNSEL OF RECORD HAS ENTERED INTO A
36 LITIGATION FINANCING AGREEMENT.

37 2. THE NAME OF THE LITIGATION FINANCIER.

38 B. THE DISCLOSURE OBLIGATIONS REQUIRED BY THIS SECTION ARE
39 CONTINUING OBLIGATIONS AND ARE TRIGGERED ON ANY PARTY OR THE PARTY'S LEGAL
40 COUNSEL OF RECORD ENTERING INTO A NEW LITIGATION FINANCING AGREEMENT OR
41 AMENDING AN EXISTING LITIGATION FINANCING AGREEMENT.

42 C. ON RECEIPT OF THE DISCLOSURES REQUIRED BY SUBSECTION A OF THIS
43 SECTION, ANY PARTY TO THE ACTION MAY MAKE APPLICATION TO THE COURT
44 OVERSEEING THE ACTION FOR ADDITIONAL INFORMATION CONCERNING THE LITIGATION
45 FINANCING AGREEMENT, INCLUDING REQUESTING AN IN CAMERA REVIEW OF THE

1 LITIGATION FINANCING AGREEMENT, IF THE PARTY HAS A BELIEF THAT IS EITHER
2 REASONABLE OR SUPPORTED WITH A FACTUAL BASIS THAT THE EXISTENCE OF THE
3 LITIGATION FINANCING AGREEMENT, THE LITIGATION FINANCIER OR ANY OWNER OR
4 INVESTOR IN THE LITIGATION FINANCIER MAY NEGATIVELY IMPACT THE PARTY'S
5 RIGHTS OR INTERESTS IN THE ACTION OR THE PARTY'S PROPRIETARY
6 INFORMATION. A PARTY TO AN ACTION MAY SEEK DISCOVERY CONCERNING ANY OF
7 THE FOLLOWING:

8 1. WHETHER ANY OWNER OR INVESTOR IN THE LITIGATION FINANCIER IS A
9 FOREIGN COUNTRY OF CONCERN OR A FOREIGN ENTITY OF CONCERN.

10 2. WHETHER THE LITIGATION FINANCIER IS A HEDGE FUND OR WHETHER ANY
11 OWNER OR INVESTOR IN THE LITIGATION FINANCIER IS A HEDGE FUND OR WHETHER
12 THE LITIGATION FINANCING AGREEMENT IS PART OF A PORTFOLIO OR SIMILAR
13 POOLED FINANCING ARRANGEMENT.

14 3. WHETHER THERE ARE ANY PROVISIONS IN THE LITIGATION FINANCING
15 AGREEMENT ALLOWING FOR CONTROL, DIRECTION OR INFLUENCE OVER THE ACTION.

16 D. ALL OF THE DISCLOSURE OBLIGATIONS REQUIRED BY THIS SECTION APPLY
17 TO CLASS ACTIONS AND MULTIDISTRICT LITIGATION.

18 12-3455. Violations; enforcement

19 A. A LITIGATION FINANCING AGREEMENT THAT IS ENTERED INTO IN
20 VIOLATION OF THIS CHAPTER IS VOIDABLE.

21 B. A LITIGATION FINANCIER WHO VIOLATES SECTION 12-3452 OR 12-3453
22 COMMITS AN UNLAWFUL PRACTICE UNDER SECTION 44-1522.

23 C. THE COURT SHALL DETERMINE SANCTIONS FOR ANY PARTY THAT FAILS TO
24 MAKE THE DISCLOSURES REQUIRED BY SECTION 12-3454. AN EVASIVE OR
25 INCOMPLETE DISCLOSURE SHALL BE TREATED AS A FAILURE TO MAKE THE REQUIRED
26 DISCLOSURE.

27 Sec. 2. Applicability

28 This act applies to any civil action, administrative proceeding,
29 claim or cause of action that is pending or commenced on or after the
30 effective date of this act.

31 Sec. 3. Effective date

32 This act is effective from and after December 31, 2025.

33 Enroll and engross to conform

34 Amend title to conform

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