

PROPOSED
SENATE AMENDMENTS TO S. B. 1215
(Reference to printed 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. "CONSUMER" OR "FUNDED CONSUMER" MEANS ANY PERSON WHO HAS~~
12 ~~ENTERED INTO A LITIGATION FINANCING AGREEMENT OR WHOSE RECOVERY OR OUTCOME~~
13 ~~IN AN ACTION IS AFFECTED BY OR SUBJECT TO A LITIGATION FINANCING~~
14 ~~AGREEMENT.]~~

15 ~~3. "FOREIGN PERSON" MEANS A PERSON THAT IS NOT ANY OF THE~~
16 ~~FOLLOWING:]~~

17 ~~(a) A CITIZEN OF THE UNITED STATES.]~~

18 ~~(b) AN ALIEN LAWFULLY ADMITTED FOR PERMANENT RESIDENCE IN THE~~
19 ~~UNITED STATES.]~~

20 ~~(c) AN UNINCORPORATED ASSOCIATION WITH A MAJORITY NUMBER OF MEMBERS~~
21 ~~OF WHICH ARE CITIZENS OF THE UNITED STATES OR ALIENS LAWFULLY ADMITTED FOR~~
22 ~~PERMANENT RESIDENCE IN THE UNITED STATES.]~~

23 ~~(d) A CORPORATION, LIMITED LIABILITY COMPANY, PARTNERSHIP, SOCIETY~~
24 ~~OR OTHER BUSINESS ENTITY THAT WAS FORMED OR INCORPORATED IN THE UNITED~~
25 ~~STATES.]~~

26 ~~4. "FOREIGN PRINCIPAL" MEANS ANY OF THE FOLLOWING:]~~

27 ~~(a) THE GOVERNMENT OR A GOVERNMENT OFFICIAL OF ANY COUNTRY OTHER~~
28 ~~THAN THE UNITED STATES.]~~

1 ~~(b) A POLITICAL SUBDIVISION OR POLITICAL PARTY OF A COUNTRY OTHER~~
2 ~~THAN THE UNITED STATES.~~

3 ~~(c) A PARTNERSHIP, ASSOCIATION, CORPORATION, ORGANIZATION OR OTHER~~
4 ~~COMBINATION OF PERSONS ORGANIZED UNDER THE LAWS OR HAVING ITS PRINCIPAL~~
5 ~~PLACE OF BUSINESS IN A COUNTRY OTHER THAN THE UNITED STATES WHOSE SHARES~~
6 ~~OR OTHER OWNERSHIP INTEREST IS OWNED BY THE GOVERNMENT OR A GOVERNMENT~~
7 ~~OFFICIAL OF A COUNTRY OTHER THAN THE UNITED STATES OR OWNED BY A POLITICAL~~
8 ~~SUBDIVISION OR POLITICAL PARTY OF A COUNTRY OTHER THAN THE UNITED STATES.]~~

9 [2. "FOREIGN COUNTRY OF CONCERN" INCLUDES THE FOLLOWING:

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

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

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

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

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

20 (c) HAS A PRINCIPAL PLACE OF BUSINESS IN A FOREIGN COUNTRY OF
21 CONCERN.

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

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

26 (ii) DESIGNATED BY THE UNITED STATES SECRETARY OF STATE AS A
27 FOREIGN TERRORIST ORGANIZATION.]

28 ~~[5.] [4.] "LICENSED HEALTH CARE PROVIDER" HAS THE SAME MEANING~~
29 ~~PRESCRIBED IN SECTION 12-561.~~

30 ~~[6.] [5.] "LITIGATION FINANCIER" MEANS A PERSON THAT HAS ENTERED~~
31 ~~INTO A LITIGATION FINANCING AGREEMENT WITH A PARTY TO AN ACTION OR COUNSEL~~
32 ~~OF RECORD FOR A PARTY TO AN ACTION.~~

33 ~~[7.] [6.] "LITIGATION FINANCING AGREEMENT" OR "LITIGATION~~
34 ~~FINANCING" MEANS ANY AGREEMENT [WHERE A PERSON PROVIDES FINANCING,~~
35 ~~FUNDING, ADVANCING OR LOANING OF MONEY TO PAY FOR FEES, COSTS, EXPENSES OR~~
36 ~~ANY OTHER SUMS ARISING FROM OR IN ANY MANNER RELATED TO AN ACTION IN~~
37 ~~EXCHANGE FOR THE RIGHT TO RECEIVE REPAYMENT, INTEREST, FEES OR OTHER~~
38 ~~CONSIDERATION THAT CUMULATIVELY EXCEEDS THE AMOUNT OF MONEY GIVEN BY THE~~
39 ~~PERSON AND THAT IS CONTINGENT IN ANY RESPECT ON THE OUTCOME OF AN ACTION~~
40 ~~OR ON THE OUTCOME OF ANY MATTER WITHIN A PORTFOLIO THAT INCLUDES THE~~
41 ~~ACTION AND INVOLVES THE SAME COUNSEL OR AFFILIATED COUNSEL, BUT EXCLUDING~~
42 ~~ANY OF THE FOLLOWING LOANS, AGREEMENTS, CONTRACTS OR ARRANGEMENTS ENTERED~~
43 ~~INTO WITH OR BY] [CREATING A RIGHT TO RECEIVE PAYMENT BY ANYONE WHICH IS~~
44 ~~CONTINGENT IN ANY RESPECT ON THE OUTCOME OF AN ACTION OR ON THE OUTCOME OF~~
45 ~~ANY MATTER WITHIN A PORTFOLIO THAT INCLUDES THE ACTION AND INVOLVES THE~~
46 ~~SAME COUNSEL OR AFFILIATED COUNSEL, BUT EXCLUDING THE FOLLOWING]:~~

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

6 (b) A COUNSEL OF RECORD FOR LEGAL SERVICES PROVIDED ON A
7 CONTINGENCY FEE BASIS OR ADVANCED LEGAL COSTS PROVIDED BY COUNSEL OF
8 RECORD, WHERE THE SERVICES OR COSTS ARE PROVIDED BY A LEGAL COUNSEL OF
9 RECORD IN ACCORDANCE WITH THE RULES OF PROFESSIONAL CONDUCT ADOPTED BY THE
10 SUPREME COURT.

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

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

21 (e) FUNDING THAT IS PROVIDED TO A NONPROFIT ORGANIZATION, IF THE
22 NONPROFIT ORGANIZATION USES THE FUNDING TO SEEK RELIEF OTHER THAN
23 COMPENSATORY DAMAGES IN EXCESS OF \$100,000 OR PUNITIVE DAMAGES, WHETHER AS
24 A PARTY OR ON BEHALF OF A CLIENT OR MEMBER OF THE ORGANIZATION, AND
25 IRRESPECTIVE OF WHETHER THE NONPROFIT ORGANIZATION SEEKS AN AWARD OF COSTS
26 OR ATTORNEY FEES IN PROVIDING PRO BONO REPRESENTATION.

27 (f) FUNDING PROVIDED BY A NONPROFIT ORGANIZATION THAT IS EXEMPT
28 FROM TAXATION UNDER 501(c)(3) OF THE UNITED STATES INTERNAL REVENUE CODE,
29 BY GRANT OR OTHERWISE, TO SUPPORT THE PURSUIT OF LITIGATION THAT DOES NOT
30 SEEK COMPENSATORY DAMAGES IN EXCESS OF \$100,000 OR PUNITIVE DAMAGES.

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

33 ~~8. "NATIONAL SECURITY INTERESTS" MEANS THOSE INTERESTS THAT~~
34 ~~ENCOMPASS NATIONAL DEFENSE, FOREIGN INTELLIGENCE AND COUNTERINTELLIGENCE,~~
35 ~~INTERNATIONAL AND INTERNAL SECURITY AND FOREIGN RELATIONS OF THE UNITED~~
36 ~~STATES.~~

37 ~~9. "PROPRIETARY INFORMATION" MEANS INFORMATION THAT IS DEVELOPED,~~
38 ~~CREATED OR DISCOVERED BY A PERSON OR THAT BECAME KNOWN BY OR WAS CONVEYED~~
39 ~~TO THE PERSON, THAT HAS COMMERCIAL VALUE IN THE PERSON'S BUSINESS,~~
40 ~~INCLUDING DOMAIN NAMES, TRADE SECRETS, COPYRIGHTS, IDEAS, TECHNIQUES,~~
41 ~~INVENTIONS, WHETHER PATENTABLE OR NOT, AND OTHER INFORMATION OF ANY TYPE~~
42 ~~RELATING TO DESIGNS, CONFIGURATIONS, DOCUMENTATION, RECORDED DATA,~~
43 ~~SCHEMATICS, CIRCUITS, MASK WORKS, LAYOUTS, SOURCE CODE, OBJECT CODE,~~
44 ~~MASTER WORKS, MASTER DATABASES, ALGORITHMS, FLOW CHARTS, FORMULAE, WORKS~~
45 ~~OF AUTHORSHIP, MECHANISMS, RESEARCH, MANUFACTURE, IMPROVEMENTS, ASSEMBLY,~~
46 ~~INSTALLATION, INTELLECTUAL PROPERTY, INCLUDING PATENTS AND PATENT~~
47 ~~APPLICATIONS, AND INFORMATION CONCERNING THE PERSON'S ACTUAL OR~~

1 ~~ANTICIPATED BUSINESS, RESEARCH OR DEVELOPMENT OR THAT IS RECEIVED IN~~
2 ~~CONFIDENCE BY OR FOR THE PERSON FROM ANY OTHER SOURCE.~~

3 ~~10. "SOVEREIGN WEALTH FUND" MEANS AN INVESTMENT FUND THAT IS OWNED~~
4 ~~OR CONTROLLED BY A FOREIGN PRINCIPAL OR AN AGENT OF A FOREIGN PRINCIPAL.~~

5 ~~11. "TRADE SECRETS" HAS THE SAME MEANING PRESCRIBED IN SECTION~~
6 ~~44-401.]~~

7 12-3452. Preserving consumer control and recoveries

8 A. A LITIGATION FINANCIER MAY NOT DIRECT OR MAKE ANY DECISIONS WITH
9 RESPECT TO THE COURSE OF ANY ACTION THAT IS SUBJECT TO A LITIGATION
10 FINANCING AGREEMENT OR ANY SETTLEMENT OR OTHER DISPOSITION THEREOF,
11 INCLUDING DECISIONS CONCERNING APPOINTING OR CHANGING COUNSEL, CHOICE OF
12 OR USE OF EXPERT WITNESSES AND LITIGATION STRATEGY. THE NAMED PARTY AND
13 COUNSEL OF RECORD SHALL RETAIN ALL RIGHTS TO CONTROL AND DECISION-MAKING
14 WITH REGARD TO THE ACTION.

15 B. A LITIGATION FINANCIER MAY NOT, DIRECTLY OR INDIRECTLY, RECEIVE
16 A LARGER SHARE OF THE PROCEEDS OF AN ACTION THAN THE ~~[NAMED PARTIES TO THE~~
17 ~~ACTION THAT IS SUBJECT TO A LITIGATION FINANCING AGREEMENT]~~ [FUNDED
18 CONSUMER].

19 C. IN A CLASS ACTION LITIGATION, THE COURT SHALL CONSIDER THE
20 EXISTENCE OF LITIGATION FINANCING AND ANY RELATED CONFLICTS OF INTEREST
21 WHEN DETERMINING WHETHER A CLASS REPRESENTATIVE OR CLASS COUNSEL WOULD
22 ADEQUATELY AND FAIRLY REPRESENT THE INTERESTS OF THE CLASS.

23 D. IN MULTIDISTRICT LITIGATION, THE COURT SHALL CONSIDER THE
24 EXISTENCE OF LITIGATION FINANCING AND ANY RELATED CONFLICTS OF INTEREST
25 WHEN APPROVING OR APPOINTING COUNSEL TO LEADERSHIP POSITIONS. FOR THE
26 PURPOSES OF THIS SUBSECTION, "LEADERSHIP POSITIONS" MEANS ANY LEAD
27 COUNSEL, COLEAD COUNSEL, COMMON BENEFIT COUNSEL, STEERING COMMITTEE
28 MEMBERSHIP, EXECUTIVE COMMITTEE MEMBERSHIP AND OTHER SIMILAR POSITIONS OR
29 ROLES.

30 12-3453. Prohibited conduct

31 [A.] A LITIGATION FINANCIER MAY NOT DO ANY OF THE FOLLOWING:

32 1. PAY OR OFFER TO PAY A COMMISSION, REFERRAL FEE OR OTHER
33 CONSIDERATION TO ANY PERSON, INCLUDING LEGAL COUNSEL, A LAW FIRM OR A
34 LICENSED HEALTH CARE PROVIDER, FOR REFERRING A PERSON TO THE LITIGATION
35 FINANCIER.

36 2. ASSIGN, INCLUDING SECURITIZING, A LITIGATION FINANCING AGREEMENT
37 IN WHOLE OR IN PART.

38 3. BE ASSIGNED RIGHTS TO AN ACTION THAT IS SUBJECT TO A LITIGATION
39 FINANCING AGREEMENT TO WHICH THAT LITIGATION FINANCIER IS A PARTY.

40 ~~[B. A LITIGATION FINANCIER MAY NOT PROVIDE FUNDING TO OR IN~~
41 ~~CONNECTION WITH A LITIGATION FINANCING AGREEMENT THAT IS DIRECTLY OR~~
42 ~~INDIRECTLY FINANCED BY A FOREIGN ENTITY OF CONCERN.]~~

43 12-3454. Required disclosures

44 ~~[A. LEGAL COUNSEL WHO ENTERS INTO A LITIGATION FINANCING AGREEMENT~~
45 ~~MUST DELIVER A COPY OF THE LITIGATION FINANCING AGREEMENT TO ALL PERSONS~~
46 ~~LEGAL COUNSEL IS REPRESENTING IN THE SUBJECT ACTION WITHIN THIRTY DAYS~~

1 ~~AFTER THE EARLIER OF BEING RETAINED AS LEGAL COUNSEL OR ENTERING INTO THE~~
2 ~~LITIGATION FINANCING AGREEMENT.]~~
3 ~~[B.] [A.] EXCEPT AS OTHERWISE STIPULATED OR ORDERED BY A COURT OF~~
4 ~~COMPETENT JURISDICTION, A PARTY TO AN ACTION OR THE PARTY'S COUNSEL OF~~
5 ~~RECORD, WITHOUT AWAITING A DISCOVERY REQUEST AND WITHIN THIRTY DAYS AFTER~~
6 ~~COMMENCEMENT OF THE ACTION, SHALL [DELIVER A COPY OF THE LITIGATION~~
7 ~~FINANCING AGREEMENT TO ALL THE FOLLOWING PERSONS] [DISCLOSE TO EACH OTHER~~
8 ~~PARTY TO THE ACTION AND TO ANY KNOWN PERSON, INCLUDING AN INSURER, WITH A~~
9 ~~PREEXISTING CONTRACTUAL OBLIGATION TO INDEMNIFY OR DEFEND A PARTY TO THE~~
10 ~~ACTION THE FOLLOWING INFORMATION]:~~
11 ~~[1. WHETHER THE PARTY OR ITS COUNSEL OF RECORD HAS ENTERED INTO A~~
12 ~~LITIGATION FINANCING AGREEMENT.~~
13 ~~2. THE NAME OF THE LITIGATION FINANCIER.]~~
14 ~~[1. ALL PARTIES TO THE ACTION OR TO THE PARTIES' COUNSELS OF~~
15 ~~RECORD.~~
16 ~~2. THE COURT, AGENCY OR TRIBUNAL IN WHICH THE ACTION IS PENDING.~~
17 ~~3. ANY KNOWN PERSON WITH A PREEXISTING CONTRACTUAL OBLIGATION TO~~
18 ~~INDEMNIFY OR DEFEND A PARTY TO THE ACTION, INCLUDING AN INSURER PROVIDING~~
19 ~~INDEMNIFICATION OR PAYING A PARTY'S DEFENSE COSTS.~~
20 ~~4. FOR CLASS ACTIONS, ANY MEMBER OF THE CLASS ON REQUEST.~~
21 ~~5. FOR MULTIDISTRICT LITIGATION CONSOLIDATED IN THIS STATE, ALL~~
22 ~~LEGAL COUNSEL APPROVED OR APPOINTED TO A LEADERSHIP POSITION.~~
23 ~~C. EXCEPT AS OTHERWISE STIPULATED OR ORDERED BY A COURT OF~~
24 ~~COMPETENT JURISDICTION, A PARTY TO AN ACTION OR THE PARTY'S COUNSEL OF~~
25 ~~RECORD, WITHOUT AWAITING A DISCOVERY REQUEST AND WITHIN THIRTY DAYS AFTER~~
26 ~~COMMENCEMENT OF THE ACTION, SHALL DISCLOSE IN WRITING THE EXISTENCE AND~~
27 ~~NATURE OF ANY LEGAL, FINANCIAL OR OTHER RELATIONSHIP BETWEEN LEGAL COUNSEL~~
28 ~~FOR THE PARTY TO THE ACTION THAT IS SUBJECT TO A LITIGATION FINANCING~~
29 ~~AGREEMENT AND THE LITIGATION FINANCIER TO THE PERSONS LISTED IN SUBSECTION~~
30 ~~B, PARAGRAPHS 1, 2 AND 3 OF THIS SECTION.~~
31 ~~D. IN ADDITION TO THE DISCLOSURES REQUIRED BY SUBSECTIONS B AND C~~
32 ~~OF THIS SECTION AND EXCEPT AS OTHERWISE STIPULATED OR ORDERED BY A COURT~~
33 ~~OF COMPETENT JURISDICTION, A PARTY TO AN ACTION OR THE PARTY'S LEGAL~~
34 ~~COUNSEL OF RECORD, WITHOUT AWAITING A DISCOVERY REQUEST AND WITHIN THIRTY~~
35 ~~DAYS AFTER COMMENCEMENT OF THE ACTION, SHALL DISCLOSE IN WRITING TO THE~~
36 ~~PERSONS LISTED IN SUBSECTION B, PARAGRAPHS 1, 2 AND 3 OF THIS SECTION AND~~
37 ~~TO THE UNITED STATES DEPARTMENT OF STATE AND UNITED STATES OFFICE OF THE~~
38 ~~ATTORNEY GENERAL THE NAME, ADDRESS AND CITIZENSHIP OR COUNTRY OF~~
39 ~~INCORPORATION OR REGISTRATION OF ANY FOREIGN PERSON, FOREIGN PRINCIPAL OR~~
40 ~~SOVEREIGN WEALTH FUND, OTHER THAN THE NAMED PARTIES OR LEGAL COUNSEL OF~~
41 ~~RECORD.~~
42 ~~1. THAT HAS A RIGHT TO RECEIVE ANY PAYMENT THAT IS CONTINGENT IN~~
43 ~~ANY RESPECT ON THE OUTCOME OF THE ACTION BY SETTLEMENT, JUDGMENT OR~~
44 ~~OTHERWISE, OR ON THE OUTCOME OF ANY MATTER WITHIN A PORTFOLIO THAT~~
45 ~~INCLUDES THE ACTION AND INVOLVES THE SAME OR AFFILIATED LEGAL COUNSEL.~~

1 ~~2. FROM WHICH MONEY THAT IS USED TO SATISFY ANY TERM OF THE~~
2 ~~LITIGATION FINANCING AGREEMENT HAS BEEN OR WILL BE DIRECTLY OR INDIRECTLY~~
3 ~~SOURCED, IN WHOLE OR IN PART.~~

4 ~~3. THAT HAS RECEIVED OR IS ENTITLED TO RECEIVE PROPRIETARY~~
5 ~~INFORMATION OR INFORMATION AFFECTING NATIONAL SECURITY INTERESTS OBTAINED~~
6 ~~AS A RESULT OF THE ACTION.~~

7 ~~E. THE DISCLOSURE OBLIGATIONS REQUIRED BY THIS SECTION ARE~~
8 ~~CONTINUING OBLIGATIONS AND ARE TRIGGERED ON ANY PARTY OR THE PARTY'S LEGAL~~
9 ~~COUNSEL OF RECORD ENTERING INTO A NEW LITIGATION FINANCING AGREEMENT OR~~
10 ~~AMENDING AN EXISTING LITIGATION FINANCING AGREEMENT.~~

11 ~~F. PRIOR TO PRODUCTION OF A LITIGATION FINANCING AGREEMENT IN~~
12 ~~RESPONSE TO A DISCOVERY REQUEST, A PARTY MAY REQUEST AND A COURT MUST~~
13 ~~CONDUCT AN IN CAMERA REVIEW OF ANY THIRD PARTY PAYOR AGREEMENT TO~~
14 ~~ASCERTAIN WHETHER IT IS A LITIGATION FINANCING AGREEMENT. A PARTY MAY~~
15 ~~REDACT ANY INFORMATION THAT MAY IDENTIFY THE THIRD-PARTY PAYOR BEFORE~~
16 ~~SUBMITTING THE AGREEMENT FOR IN CAMERA REVIEW. IF THE COURT CONCLUDES~~
17 ~~THAT THE AGREEMENT IS A LITIGATION FINANCING AGREEMENT, A PARTY MAY SEEK~~
18 ~~DISCOVERY OF THE LITIGATION FINANCE AGREEMENT AND ALL PARTIES TO THE~~
19 ~~LITIGATION FINANCE AGREEMENT.~~

20 ~~G. THE DISCLOSURE OBLIGATIONS PRESCRIBED BY THIS SECTION APPLY TO~~
21 ~~CLASS ACTIONS AND MULTIDISTRICT LITIGATION.]~~

22 [B. THE DISCLOSURE OBLIGATIONS REQUIRED BY THIS SECTION ARE
23 CONTINUING OBLIGATIONS AND ARE TRIGGERED ON ANY PARTY OR THE PARTY'S LEGAL
24 COUNSEL OF RECORD ENTERING INTO A NEW LITIGATION FINANCING AGREEMENT OR
25 AMENDING AN EXISTING LITIGATION FINANCING AGREEMENT.

26 C. ON RECEIPT OF THE DISCLOSURES REQUIRED BY SUBSECTION A OF THIS
27 SECTION, ANY PARTY TO THE ACTION MAY MAKE APPLICATION TO THE COURT
28 OVERSEEING THE ACTION FOR ADDITIONAL INFORMATION CONCERNING THE LITIGATION
29 FINANCING AGREEMENT, INCLUDING REQUESTING AN IN CAMERA REVIEW OF THE
30 LITIGATION FINANCING AGREEMENT, IF THE PARTY BELIEVES THAT THE EXISTENCE
31 OF THE LITIGATION FINANCING AGREEMENT, THE LITIGATION FINANCIER OR ANY
32 OWNER OR INVESTOR IN THE LITIGATION FINANCIER MAY NEGATIVELY IMPACT THE
33 PARTY'S RIGHTS OR INTERESTS IN THE ACTION OR THE PARTY'S PROPRIETARY
34 INFORMATION. A PARTY TO AN ACTION MAY SEEK DISCOVERY CONCERNING AND OF THE
35 FOLLOWING:

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

38 2. WHETHER THE LITIGATION FINANCIER IS A HEDGE FUND OR WHETHER ANY
39 OWNER OR INVESTOR IN THE LITIGATION FINANCIER IS A HEDGE FUND OR WHETHER
40 THE LITIGATION FINANCING AGREEMENT IS PART OF A PORTFOLIO OR SIMILAR
41 POOLED FINANCING ARRANGEMENT.

42 3. WHETHER OR NOT THERE ARE ANY PROVISIONS IN THE LITIGATION
43 FINANCING AGREEMENT ALLOWING FOR CONTROL, DIRECTION OR INFLUENCE OVER THE
44 ACTION.

45 D. ALL OF THE DISCLOSURE OBLIGATIONS REQUIRED BY THIS SECTION APPLY
46 TO CLASS ACTIONS AND MULTIDISTRICT LITIGATION.]

1 ~~[12-3455. Consumer protection from adverse determinations~~
2 ~~A. IN ANY LITIGATION FINANCING AGREEMENT, A LITIGATION FINANCIER~~
3 ~~MUST INDEMNIFY THE FUNDED CONSUMERS AGAINST ANY ADVERSE COSTS, ATTORNEY~~
4 ~~FEES, DAMAGES OR SANCTIONS THAT MAY BE ORDERED OR AWARDED IN ANY ACTION~~
5 ~~FOR WHICH THE LITIGATION FINANCIER IS PROVIDING LITIGATION FINANCING.~~
6 ~~B. NOTWITHSTANDING SUBSECTION A OF THIS SECTION, INDEMNIFICATION IS~~
7 ~~NOT REQUIRED FOR ANY ADVERSE COSTS, ATTORNEY FEES, DAMAGES OR SANCTIONS~~
8 ~~THAT RESULT FROM THE CONSUMER'S INTENTIONALLY WRONGFUL CONDUCT.]~~

9 ~~[12-3456.]~~ [12-3455.] Violations: enforcement

10 A. A LITIGATION FINANCING AGREEMENT THAT IS ENTERED INTO IN
11 VIOLATION OF THIS CHAPTER IS ~~[VOID]~~ [VOIDABLE].

12 B. A LITIGATION FINANCIER WHO VIOLATES SECTION 12-3452~~[,]~~ [OR]
13 12-3453 ~~[OR 12-3455]~~ COMMITS AN UNLAWFUL PRACTICE UNDER SECTION 44-1522.

14 C. THE COURT SHALL DETERMINE SANCTIONS FOR ANY PARTY THAT FAILS TO
15 MAKE THE DISCLOSURES REQUIRED BY SECTION 12-3454. AN EVASIVE OR
16 INCOMPLETE DISCLOSURE SHALL BE TREATED AS A FAILURE TO MAKE THE REQUIRED
17 DISCLOSURE.

18 Sec. 2. Applicability

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

22 Sec. 3. Effective date

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

24 Enroll and engross to conform

25 Amend title to conform

VENDEN "VINCE" LEACH

1215LEACH.docx

02/18/2025

2:24 PM

C: AS