

DIGEST

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SB 196 Reengrossed

2023 Regular Session

Peacock

Proposed law creates the Litigation Financing Disclosure and Security Protection Act.

Proposed law provides for definitions of "legal representative", "litigation financier", "litigation financing", "litigation financing contract or agreement", "national security", "party", and "proprietary information".

Proposed law provides that the party not be domiciled in this state.

Proposed law provides that except as otherwise stipulated by the parties or ordered by the court, a party or his legal representative shall provide to all litigants, including the 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, 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, judgement, or otherwise.

Proposed law provides that except as otherwise stipulated by the parties or ordered by the court, a party or his legal representative shall provide to all litigants, including the 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, has received or has a right to receive proprietary information or information affecting national defense or security obtained as a result of the litigation.

Proposed law adds provisions excluding application to non-profit legal organizations seeking only injunctive relief on behalf of its clients from disclosure requirements. Awards of costs or attorney fees to non-profit legal organizations shall not be affected by proposed law. Provides that a non-profit legal organization shall not be required to disclose its donors or sources of funding.

Proposed law provides that the existence of litigation financing, litigation financing contracts or agreements, 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 litigation financier.

Proposed law provides that any violation of proposed law shall make the litigation financing contract absolutely null.

Effective August 1, 2023.

(Adds R.S. 9:3580.1-3580.5)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary A to the original bill

1. Clarifies the definition of "litigation financing".

2. Changes the term "litigation financing transaction" to "litigation financing contract or agreement".
3. Clarifies the definition of "litigation financing contract or agreement".

Summary of Amendments Adopted by Senate

Senate Floor Amendments to engrossed bill

1. Excludes nonprofit legal organizations from disclosure requirements.
2. Removes requirement that party be residing or domiciled in this state.

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Civil Law and Procedure to the reengrossed bill:

1. Amend definition of "litigation financing".
2. Change when a party shall disclose a litigation financing contract or agreement from sixty days after entering the contract or agreement to sixty days after the commencement of a civil action.
3. Remove provision on solidary liability.
4. Provide for the absolute nullity of contracts in violation of proposed law.
5. Make technical amendments to the grammar and semantics throughout the bill.
6. Make technical amendments to the title.