

2016 -- S 2314

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

A N A C T

RELATING TO COURTS AND CIVIL PROCEDURE -- LITIGATION LENDING
AGREEMENTS

Introduced By: Senator Michael J. McCaffrey

Date Introduced: February 09, 2016

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 9 of the General Laws entitled "COURTS AND CIVIL
2 PROCEDURE--PROCEDURE GENERALLY" is hereby amended by adding thereto the
3 following chapter:

4 CHAPTER 3.1

5 LITIGATION LENDING AGREEMENTS

6 **9-3.1-1. Legislative findings. --** The legislature finds and declares that:

7 (1) Litigation financing contracts are being entered into where companies advance money
8 to a litigant in return for payment from litigation proceeds at effective annual interest rates far
9 exceeding state usury limits; and

10 (2) Such contracts often bear annual interest rates over one hundred percent (100%); and

11 (3) Such rates are detrimental to the general welfare of the citizens of this state and it is
12 necessary to enact legislation to ensure litigation-funding advances conform to state laws
13 regarding usurious loans.

14 **9-3.1-2. Litigation lending agreement defined. --** A litigation lending agreement (LLA)
15 is any agreement whereby monies are paid to parties to civil litigation (litigants) in consideration
16 for a litigant's agreement to repay such monies (with or without interest, one-time charges, use
17 fees, or any other add-on charges) from proceeds of the litigation. Not included in the definition
18 of an LLA are advancements of expenses of litigation made by attorneys on behalf of their

1 clients, as permitted by rule 1.8(e) of the Rhode Island rules of professional conduct.

2 **9-3.1-3. Litigation advances considered loans within usury statute.** -- All payments
3 made by a litigant under an LLA greater than the amount received by the litigant under the LLA
4 shall be considered interest on loans within the purview of §6-26-2 regardless of:

5 (1) Whether an LLA characterizes itself as a "loan," an "advance," an "investment," an
6 "assignment of proceeds," or any other characterization;

7 (2) Whether monies to be repaid under the LLA are called "interest," "use fees," or any
8 other term;

9 (3) Whether the amount received by the litigant under the LLA otherwise exceeds any
10 monetary limit for loans falling within Rhode Island's usury statute; and

11 (4) Whether the obligation on the part of the litigant to repay monies is contingent upon
12 the outcome of the litigation.

13 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T
RELATING TO COURTS AND CIVIL PROCEDURE -- LITIGATION LENDING
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- 1 This act would make litigation loan agreements subject to state usury statutes.
- 2 This act would take effect upon passage.

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