

# HOUSE BILL 873

D3, I3

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By: **Delegates Dumais, Alston, Anderson, Barnes, Mitchell, and Valderrama**  
Introduced and read first time: February 11, 2011  
Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Civil Litigation Funding Act**

3 FOR the purpose of establishing that the contingent right to receive a portion of the  
4 potential proceeds of a certain legal claim is assignable and that an assignment  
5 of that right is valid for certain purposes; establishing certain requirements for  
6 a contract for nonrecourse civil litigation funding; establishing that the  
7 responsibilities of a certain attorney if a certain dispute arises shall be  
8 consistent with the Maryland Rules of Professional Responsibility; establishing  
9 that certain communications do not affect certain evidentiary privileges;  
10 establishing the fees that a civil litigation funding company may collect;  
11 establishing certain prohibitions; requiring each civil litigation funding  
12 company to be registered with the Secretary of State; establishing certain  
13 requirements for applications for registration and registration renewals;  
14 authorizing the Secretary of State to establish certain fees; requiring an  
15 application for registration or renewal of registration to be accompanied by the  
16 applicable fee; requiring the Secretary of State to issue a certificate of  
17 registration under certain circumstances; authorizing the Secretary of State to  
18 refuse to issue, or to suspend, revoke, or refuse to renew a certificate of  
19 registration under certain circumstances; requiring the Secretary of State to  
20 notify the Consumer Protection Division of the office of the Attorney General if  
21 the Secretary of State suspends, revokes, or refuses to renew a certificate of  
22 registration; authorizing the Division to take certain action; altering the powers  
23 and duties of the Division; making a violation of this Act an unfair or deceptive  
24 trade practice; requiring each licensed civil litigation funding company to report  
25 annually certain information to the Secretary of State; requiring the Secretary  
26 of State to adopt certain regulations and submit a certain annual report to the  
27 General Assembly; providing for the construction of this Act; defining certain  
28 terms; and generally relating to civil litigation funding.

29 BY repealing and reenacting, with amendments,  
30 Article – Commercial Law

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.  
[Brackets] indicate matter deleted from existing law.



1 Section 13–204(13) and (14) and 13–301(14)(xxvi)  
 2 Annotated Code of Maryland  
 3 (2005 Replacement Volume and 2010 Supplement)

4 BY repealing and reenacting, without amendments,  
 5 Article – Commercial Law  
 6 Section 13–301(14)(xxvii)  
 7 Annotated Code of Maryland  
 8 (2005 Replacement Volume and 2010 Supplement)

9 BY adding to  
 10 Article – Commercial Law  
 11 Section 13–204(15) and 13–301(14)(xxviii)  
 12 Annotated Code of Maryland  
 13 (2005 Replacement Volume and 2010 Supplement)

14 BY adding to  
 15 Article – State Government  
 16 Section 7–301 through 7–318 to be under the new subtitle “Subtitle 3. Civil  
 17 Litigation Funding”  
 18 Annotated Code of Maryland  
 19 (2009 Replacement Volume and 2010 Supplement)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
 21 MARYLAND, That the Laws of Maryland read as follows:

22 **Article – Commercial Law**

23 13–204.

24 In addition to any other of its powers and duties, the Division has the powers  
 25 and duties to:

26 (13) Enter into reciprocal agreements with consumer protection  
 27 agencies of other states, in which each state mutually agrees to receive and investigate  
 28 complaints from the foreign state’s consumer protection agency on behalf of their  
 29 consumers against businesses in the receiving and investigating state; [and]

30 (14) (i) Maintain a list of nonprofit organizations that:

31 1. Solely offer counseling or advice to homeowners in  
 32 foreclosure or loan default; and

33 2. Are not directly or indirectly related to and do not  
 34 contract for services with for–profit lenders or foreclosure purchasers, as defined in §  
 35 7–301 of the Real Property Article; and

1 (ii) Provide the name and telephone number of an organization  
2 on the list to a homeowner who contacts the Division after receiving a notice under §  
3 7–105.1(d)(2)(ix) of the Real Property Article; AND

4 (15) ASSIST THE SECRETARY OF STATE UNDER TITLE 7, SUBTITLE  
5 3 OF THE STATE GOVERNMENT ARTICLE.  
6 13–301.

7 Unfair or deceptive trade practices include any:

8 (14) Violation of a provision of:

9 (xxvi) Title 6, Subtitle 13 of the Environment Article; [or]

10 (xxvii) Section 7–405(e)(2)(ii) of the Health Occupations Article; or

11 (XXVIII) TITLE 7, SUBTITLE 3 OF THE STATE  
12 GOVERNMENT ARTICLE; OR

13 Article – State Government

14 SUBTITLE 3. CIVIL LITIGATION FUNDING.

15 PART I. DEFINITIONS; GENERAL PROVISIONS.

16 7–301.

17 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
18 INDICATED.

19 (B) “CIVIL LITIGATION FUNDING COMPANY” MEANS A PERSON THAT  
20 ENTERS INTO A NONRECOURSE CIVIL LITIGATION FUNDING TRANSACTION WITH  
21 A CONSUMER.

22 (C) “CONSUMER” MEANS A PERSON WHO:

23 (1) RESIDES OR IS DOMICILED IN THE STATE;

24 (2) HAS A PENDING LEGAL CLAIM;

25 (3) ELECTS TO ENTER INTO A NONRECOURSE CIVIL LITIGATION  
26 FUNDING TRANSACTION, WHETHER IN PERSON, OVER THE INTERNET, BY  
27 FACSIMILE, OR BY ANY OTHER ELECTRONIC MEANS; AND

1           **(4) IS REPRESENTED BY AN ATTORNEY AT THE TIME THE PERSON**  
2 **ENTERS INTO A NONRECOURSE CIVIL LITIGATION FUNDING TRANSACTION.**

3           **(D) “CONTRACT” MEANS A WRITTEN AGREEMENT BETWEEN A**  
4 **CONSUMER AND A CIVIL LITIGATION FUNDING COMPANY IN WHICH THE CIVIL**  
5 **LITIGATION FUNDING COMPANY AGREES TO PROVIDE CIVIL LITIGATION**  
6 **FUNDING TO THE CONSUMER IN ACCORDANCE WITH PART II OF THIS SUBTITLE.**

7           **(E) “DIVISION” MEANS THE DIVISION OF CONSUMER PROTECTION OF**  
8 **THE OFFICE OF THE ATTORNEY GENERAL.**

9           **(F) “FUNDING AMOUNT” MEANS THE SUM OF MONEY PROVIDED TO A**  
10 **CONSUMER BY A CIVIL LITIGATION FUNDING COMPANY AFTER EXECUTION OF A**  
11 **CONTRACT, AS CONSIDERATION FOR THE ASSIGNMENT OF OR PURCHASE OF A**  
12 **PORTION OF THE CONSUMER’S CONTINGENT RIGHT TO RECEIVE THE PROCEEDS**  
13 **OF THE LEGAL CLAIM.**

14           **(G) “FUNDING DATE” MEANS THE DATE ON WHICH THE FUNDING**  
15 **AMOUNT IS PROVIDED TO THE CONSUMER BY THE CIVIL LITIGATION FUNDING**  
16 **COMPANY.**

17           **(H) “LEGAL CLAIM” MEANS A BONA FIDE CIVIL OR STATUTORY CLAIM**  
18 **OR CAUSE OF ACTION.**

19           **(I) “NONRECOURSE CIVIL LITIGATION FUNDING TRANSACTION” MEANS**  
20 **A TRANSACTION IN ACCORDANCE WITH A CONTRACT IN WHICH A CIVIL**  
21 **LITIGATION FUNDING COMPANY TAKES AN ASSIGNMENT OF OR PURCHASES A**  
22 **CONTINGENT RIGHT TO A PORTION OF A CONSUMER’S POTENTIAL PROCEEDS OF**  
23 **A SETTLEMENT, JUDGMENT, AWARD, OR VERDICT OBTAINED IN THE**  
24 **CONSUMER’S LEGAL CLAIM.**

25           **(J) “PROCEEDS” MEAN ANY FUNDS THAT ARE REMAINING FROM A**  
26 **SETTLEMENT, A FINAL JUDGMENT, AN AWARD, A VERDICT, OR AN INSURANCE**  
27 **PAYMENT OBTAINED IN THE CONSUMER’S LEGAL CLAIM AFTER ANY ATTORNEY’S**  
28 **FEES, MEDICARE OR MEDICAID LIENS, AND HEALTH INSURANCE OR HEALTH**  
29 **CARE PROVIDER LIENS ARE DEDUCTED.**

30           **(K) “RESOLUTION DATE” MEANS THE DATE ON WHICH:**

31           **(1) THE FUNDING AMOUNT PLUS AGREED UPON FEES FROM THE**  
32 **LEGAL CLAIM ARE RECEIVED BY THE CIVIL LITIGATION FUNDING COMPANY; OR**

33           **(2) THE CIVIL LITIGATION FUNDING COMPANY AGREES TO**  
34 **ACCEPT A REDUCED AMOUNT OF THE FUNDING AMOUNT PLUS AGREED UPON**

1 FEES FROM THE LEGAL CLAIM BECAUSE THERE ARE INSUFFICIENT PROCEEDS  
2 TO REMIT THE FULL AMOUNT TO THE CIVIL LITIGATION FUNDING COMPANY.

3 **7-302.**

4 THE CONTINGENT RIGHT TO RECEIVE A PORTION OF THE POTENTIAL  
5 PROCEEDS OF A LEGAL CLAIM IS ASSIGNABLE AND AN ASSIGNMENT OF THAT  
6 RIGHT IS VALID FOR THE PURPOSES OF OBTAINING FUNDING FROM A CIVIL  
7 LITIGATION FUNDING COMPANY UNDER THIS SUBTITLE.

8 **7-303.**

9 (A) IF A DISPUTE ARISES BETWEEN A CONSUMER AND A CIVIL  
10 LITIGATION FUNDING COMPANY CONCERNING A CONTRACT FOR A  
11 NONRECOURSE CIVIL LITIGATION FUNDING TRANSACTION, THE  
12 RESPONSIBILITIES OF THE ATTORNEY REPRESENTING THE CONSUMER IN THE  
13 LEGAL CLAIM SHALL BE CONSISTENT WITH THE ATTORNEY'S RESPONSIBILITIES  
14 UNDER THE MARYLAND LAWYERS' RULES OF PROFESSIONAL CONDUCT.

15 (B) A COMMUNICATION BETWEEN THE ATTORNEY REPRESENTING A  
16 CONSUMER IN A LEGAL CLAIM AND A CIVIL LITIGATION FUNDING COMPANY  
17 RELATING TO A CONTRACT FOR A NONRECOURSE CIVIL LITIGATION FUNDING  
18 TRANSACTION MAY NOT LIMIT, WAIVE, OR ABROGATE THE SCOPE OR NATURE OF  
19 ANY STATUTORY OR COMMON-LAW PRIVILEGE, INCLUDING THE  
20 WORK-PRODUCT DOCTRINE AND THE ATTORNEY-CLIENT PRIVILEGE.

21 **7-304.**

22 THIS SUBTITLE MAY NOT BE CONSTRUED TO CAUSE ANY NONRECOURSE  
23 CIVIL LITIGATION FUNDING TRANSACTION ENTERED INTO IN ACCORDANCE  
24 WITH THIS SUBTITLE TO BE DEEMED TO BE A LOAN OR SUBJECT TO THE  
25 RESTRICTIONS OR PROVISIONS GOVERNING LOANS.

26 **7-305. RESERVED.**

27 **7-306. RESERVED.**

28 **PART II. CONTRACTS; FEES; PROHIBITED ACTS.**

29 **7-307.**

30 (A) EACH CONTRACT FOR CIVIL LITIGATION FUNDING SHALL:

1           **(1) CONTAIN ON THE FRONT PAGE, WITH AN APPROPRIATE**  
2 **HEADING AND IN AT LEAST 14 POINT BOLDFACE TYPE, THE FOLLOWING**  
3 **DISCLOSURES:**

4                   **(I) THE TOTAL DOLLAR AMOUNT OF FUNDS TO BE**  
5 **RECEIVED BY THE CONSUMER;**

6                   **(II) AN ITEMIZATION OF ONE-TIME FEES; AND**

7                   **(III) THE TOTAL DOLLAR AMOUNT OF THE PROCEEDS BEING**  
8 **ASSIGNED BY THE CONSUMER TO THE CIVIL LITIGATION FUNDING COMPANY,**  
9 **SET FORTH IN 6-MONTH INTERVALS FOR 36 MONTHS, BEGINNING 6 MONTHS**  
10 **FROM THE FUNDING DATE;**

11           **(2) (I) PROVIDE THAT THE CONSUMER MAY CANCEL THE**  
12 **CONTRACT WITHIN 5 BUSINESS DAYS AFTER THE FUNDING DATE, WITHOUT**  
13 **PENALTY OR FURTHER OBLIGATION;**

14                   **(II) CONTAIN THE FOLLOWING NOTICE WRITTEN IN AT**  
15 **LEAST 14 POINT BOLDFACE TYPE:**

16                           **“CONSUMER’S RIGHT TO CANCELLATION**

17           **YOU MAY CANCEL THIS CONTRACT WITHOUT PENALTY OR FURTHER**  
18 **OBLIGATION WITHIN 5 BUSINESS DAYS FROM THE DATE YOU RECEIVE FUNDS**  
19 **FROM (INSERT NAME OF CIVIL LITIGATION FUNDING COMPANY).”;** AND

20                   **(III) SPECIFY THAT IN ORDER FOR THE CANCELLATION TO**  
21 **BE EFFECTIVE, THE CONSUMER MUST RETURN TO THE CIVIL LITIGATION**  
22 **FUNDING COMPANY THE FULL AMOUNT OF DISBURSED FUNDS BY:**

23                           **1. DELIVERING THE CIVIL LITIGATION FUNDING**  
24 **COMPANY’S UNCASHED CHECK TO THE CIVIL LITIGATION FUNDING COMPANY’S**  
25 **OFFICES IN PERSON, WITHIN 5 BUSINESS DAYS AFTER THE RECEIPT OF THE**  
26 **FUNDS; OR**

27                           **2. MAILING A SIGNED NOTICE OF CANCELLATION**  
28 **ACCOMPANIED BY THE FULL AMOUNT OF DISBURSED FUNDS IN THE FORM OF**  
29 **THE CIVIL LITIGATION FUNDING COMPANY’S UNCASHED CHECK, OR A**  
30 **REGISTERED OR CERTIFIED CHECK OR MONEY ORDER, BY INSURED,**  
31 **REGISTERED, OR CERTIFIED UNITED STATES MAIL, POSTMARKED WITHIN 5**  
32 **BUSINESS DAYS AFTER THE RECEIPT OF THE FUNDS FROM THE CIVIL**  
33 **LITIGATION FUNDING COMPANY, AT THE ADDRESS SPECIFIED IN THE CONTRACT**  
34 **FOR CANCELLATION;**

1           **(3)    CONTAIN THE FOLLOWING STATEMENT IN AT LEAST 14 POINT**  
2 **BOLDFACE TYPE:**

3           **“(INSERT NAME OF CIVIL LITIGATION FUNDING COMPANY) AGREES THAT**  
4 **IT SHALL HAVE NO RIGHT TO AND WILL NOT MAKE ANY DECISIONS WITH**  
5 **RESPECT TO THE CONDUCT OF THE UNDERLYING LEGAL CLAIM OR ANY**  
6 **SETTLEMENT OR RESOLUTION OF THE LEGAL CLAIM AND THAT THE RIGHT TO**  
7 **MAKE THOSE DECISIONS REMAINS SOLELY WITH YOU AND YOUR ATTORNEY IN**  
8 **THE LEGAL CLAIM.**

9           **(INSERT NAME OF CIVIL LITIGATION FUNDING COMPANY) AGREES THAT IT**  
10 **SHALL ONLY ACCEPT AN ASSIGNMENT OF A PORTION OF THE POTENTIAL**  
11 **PROCEEDS, RATHER THAN AN ASSIGNMENT OF THE CONSUMER’S LEGAL CLAIM.**  
12 **(INSERT NAME OF CIVIL LITIGATION FUNDING COMPANY) AGREES THAT IT**  
13 **SHALL HAVE NO RIGHT TO PURSUE THE LEGAL CLAIM ON BEHALF OF, OR**  
14 **INSTEAD OF, THE CONSUMER.”;**

15           **(4)    CONTAIN THE FOLLOWING STATEMENT IN A BOX, IN AT LEAST**  
16 **15 POINT BOLDFACE TYPE AND IN ALL CAPITALIZED LETTERS:**

17           **“THE CIVIL LITIGATION FUNDING COMPANY SHALL BE PAID ONLY FROM**  
18 **THE PROCEEDS OF THE LEGAL CLAIM. THE FUNDING AMOUNT AND AGREED**  
19 **UPON FEES SHALL BE PAID ONLY FROM THE PROCEEDS OF YOUR LEGAL CLAIM**  
20 **AND ONLY TO THE EXTENT THERE ARE AVAILABLE PROCEEDS FROM YOUR**  
21 **LEGAL CLAIM. YOU WILL NOT OWE (INSERT NAME OF CIVIL LITIGATION**  
22 **FUNDING COMPANY) ANYTHING IF THERE ARE NO AVAILABLE PROCEEDS FROM**  
23 **YOUR LEGAL CLAIM.”;**

24           **(5)    CONTAIN THE FOLLOWING STATEMENT IN AT LEAST 14 POINT**  
25 **BOLDFACE TYPE LOCATED IMMEDIATELY ABOVE THE SPACE WHERE THE**  
26 **CONSUMER’S SIGNATURE IS REQUIRED:**

27           **“DO NOT SIGN THIS AGREEMENT BEFORE YOU READ IT COMPLETELY OR**  
28 **IF IT CONTAINS ANY BLANK SPACES. YOU ARE ENTITLED TO A COMPLETELY**  
29 **FILLED-IN COPY OF THIS CONTRACT. BEFORE YOU SIGN THIS AGREEMENT YOU**  
30 **SHOULD OBTAIN THE ADVICE OF AN ATTORNEY. DEPENDING ON THE**  
31 **CIRCUMSTANCES, YOU MAY WANT TO CONSULT A TAX, PUBLIC OR PRIVATE**  
32 **BENEFIT PLANNING, OR FINANCIAL PROFESSIONAL. YOU ACKNOWLEDGE THAT**  
33 **YOUR ATTORNEY IN THE LEGAL CLAIM HAS PROVIDED NO TAX, PUBLIC OR**  
34 **PRIVATE BENEFIT, OR FINANCIAL PLANNING REGARDING THIS TRANSACTION.”;**

35           **(6)    CONTAIN AN ACKNOWLEDGMENT BY THE CONSUMER THAT**  
36 **THE CONSUMER HAS REVIEWED THE CONTRACT IN ITS ENTIRETY; AND**

1           **(7) CONTAIN A WRITTEN ACKNOWLEDGMENT BY THE ATTORNEY**  
2 **REPRESENTING THE CONSUMER IN THE LEGAL CLAIM THAT:**

3           **(I) ALL PROCEEDS OF THE LEGAL CLAIM WILL BE**  
4 **DISBURSED THROUGH THE TRUST ACCOUNT OF THE ATTORNEY OR THROUGH A**  
5 **SETTLEMENT FUND ESTABLISHED BY THE DEFENDANT IN THE LEGAL CLAIM TO**  
6 **RECEIVE AND DISTRIBUTE THE PROCEEDS OF THE LEGAL CLAIM ON BEHALF OF**  
7 **THE CONSUMER; AND**

8           **(II) THE ATTORNEY HAS REVIEWED THE CONTRACT AND**  
9 **WILL FOLLOW THE WRITTEN INSTRUCTIONS OF THE CONSUMER PROVIDED TO**  
10 **THE ATTORNEY WHEN THE FUNDS ARE OBTAINED BY THE CONSUMER FROM THE**  
11 **CIVIL LITIGATION FUNDING COMPANY WITH REGARD TO REMITTING PAYMENT**  
12 **TO THE CIVIL LITIGATION FUNDING COMPANY UPON RESOLUTION OF THE**  
13 **LEGAL CLAIM.**

14           **(B) (1) IN THIS SUBSECTION, “PRINCIPAL TERMS” INCLUDES ALL**  
15 **ITEMS REQUIRED TO BE DISCLOSED UNDER THIS SUBTITLE.**

16           **(2) ON THE WRITTEN REQUEST OF A SPANISH-SPEAKING**  
17 **CONSUMER, THE PRINCIPAL TERMS OF THE CONTRACT SHALL BE TRANSLATED**  
18 **IN WRITING INTO SPANISH.**

19           **(3) THE CONSUMER SHALL SIGN THE TRANSLATED DOCUMENT**  
20 **CONTAINING THE PRINCIPAL TERMS AND INITIAL EACH PAGE.**

21           **(4) THE TRANSLATOR OR ATTORNEY REPRESENTING THE**  
22 **CONSUMER IN THE LEGAL CLAIM SHALL SIGN AN AFFIRMATION CONFIRMING**  
23 **THAT THE PRINCIPAL TERMS HAVE BEEN PRESENTED TO THE CONSUMER IN**  
24 **SPANISH AND ACKNOWLEDGED BY THE CONSUMER.**

25 **7-308.**

26           **(A) THE TOTAL DOLLAR AMOUNT ASSIGNED BY A CONSUMER TO A CIVIL**  
27 **LITIGATION FUNDING COMPANY SHALL BE LIMITED TO THE FUNDING AMOUNT**  
28 **PLUS THE FEES AUTHORIZED UNDER SUBSECTION (B) OF THIS SECTION AND §**  
29 **7-309 OF THIS SUBTITLE.**

30           **(B) (1) (I) IF THE RESOLUTION DATE OCCURS ANY TIME BETWEEN**  
31 **THE FUNDING DATE AND 6 MONTHS AFTER THE FUNDING DATE, THE CIVIL**  
32 **LITIGATION FUNDING COMPANY MAY COLLECT A FEE NOT EXCEEDING 0.45**  
33 **TIMES THE FUNDING AMOUNT.**



1                   (II) IF THE RESOLUTION DATE OCCURS ANY TIME BETWEEN  
2 **6 MONTHS AND 1 DAY AFTER THE FUNDING DATE AND 12 MONTHS AFTER THE**  
3 **FUNDING DATE, THE CIVIL LITIGATION FUNDING COMPANY MAY COLLECT A FEE**  
4 **NOT EXCEEDING 0.8 TIMES THE FUNDING AMOUNT.**

5                   (III) IF THE RESOLUTION DATE OCCURS ANY TIME BETWEEN  
6 **12 MONTHS AND 1 DAY AFTER THE FUNDING DATE AND 18 MONTHS AFTER THE**  
7 **FUNDING DATE, THE CIVIL LITIGATION FUNDING COMPANY MAY COLLECT A FEE**  
8 **NOT EXCEEDING 1.5 TIMES THE FUNDING AMOUNT.**

9                   (IV) IF THE RESOLUTION DATE OCCURS ANY TIME BETWEEN  
10 **18 MONTHS AND 1 DAY AFTER THE FUNDING DATE AND 24 MONTHS AFTER THE**  
11 **FUNDING DATE, THE CIVIL LITIGATION FUNDING COMPANY MAY COLLECT A FEE**  
12 **NOT EXCEEDING 1.75 TIMES THE FUNDING AMOUNT.**

13                   (V) IF THE RESOLUTION DATE OCCURS ANY TIME BETWEEN  
14 **24 MONTHS AND 1 DAY AFTER THE FUNDING DATE AND 36 MONTHS AFTER THE**  
15 **FUNDING DATE, THE CIVIL LITIGATION FUNDING COMPANY MAY COLLECT A FEE**  
16 **NOT EXCEEDING 2.0 TIMES THE FUNDING AMOUNT.**

17                   (2) NO ADDITIONAL FEES MAY BE COLLECTED FOR ANY PERIOD  
18 **EXCEEDING 36 MONTHS AFTER THE FUNDING DATE.**

19                   (C) (1) A CIVIL LITIGATION FUNDING COMPANY IS ONLY ENTITLED  
20 **TO RECEIVE FUNDS OUT OF PROCEEDS FROM A LEGAL CLAIM, AND MAY ONLY BE**  
21 **PAID TO THE EXTENT THAT THERE ARE AVAILABLE PROCEEDS FROM A LEGAL**  
22 **CLAIM.**

23                   (2) A CIVIL LITIGATION FUNDING COMPANY MAY NOT BE PAID  
24 **ANYTHING IF THERE ARE NO AVAILABLE PROCEEDS FROM A LEGAL CLAIM.**

25 **7-309.**

26                   A CIVIL LITIGATION FUNDING COMPANY MAY COLLECT ADMINISTRATIVE  
27 **FEES NOT EXCEEDING 8% OF THE AMOUNT RECEIVED BY THE CONSUMER AT**  
28 **THE TIME OF FUNDING.**

29 **7-310.**

30                   (A) A CIVIL LITIGATION FUNDING COMPANY MAY NOT:

31                   (1) ENTER INTO A CONTRACT FOR NONRECOURSE CIVIL  
32 **LITIGATION FUNDING WITH A CONSUMER UNLESS THE CONSUMER IS**  
33 **REPRESENTED BY AN ATTORNEY;**

1           **(2) PAY OR OFFER TO PAY COMMISSIONS OR REFERRAL FEES TO**  
2 **ANY ATTORNEY OR EMPLOYEE OF A LAW FIRM OR TO ANY MEDICAL PROVIDER,**  
3 **CHIROPRACTOR, OR PHYSICAL THERAPIST OR THEIR EMPLOYEES FOR**  
4 **REFERRING A CONSUMER TO THE CIVIL LITIGATION FUNDING COMPANY;**

5           **(3) ACCEPT ANY COMMISSIONS, REFERRAL FEES, OR REBATES**  
6 **FROM ANY ATTORNEY OR EMPLOYEE OF A LAW FIRM OR ANY MEDICAL**  
7 **PROVIDER, CHIROPRACTOR, OR PHYSICAL THERAPIST OR THEIR EMPLOYEES,**  
8 **OTHER THAN THE AMOUNT THAT IS AGREED TO BE PAID TO THE CIVIL**  
9 **LITIGATION FUNDING COMPANY OUT OF THE PROCEEDS OF THE LEGAL CLAIM**  
10 **UNDER THE SIGNED CONTRACT BETWEEN THE CONSUMER AND THE CIVIL**  
11 **LITIGATION FUNDING COMPANY;**

12           **(4) ADVERTISE FALSE OR INTENTIONALLY MISLEADING**  
13 **INFORMATION REGARDING ITS PRODUCT OR SERVICES;**

14           **(5) PROVIDE FUNDING TO A CONSUMER WHO HAS PREVIOUSLY**  
15 **SOLD OR ASSIGNED A PORTION OF THE POTENTIAL PROCEEDS FROM THE**  
16 **CONSUMER'S LEGAL CLAIM TO ANOTHER CIVIL LITIGATION FUNDING COMPANY**  
17 **WITHOUT FIRST MAKING PAYMENT TO OR PURCHASING THE OTHER CIVIL**  
18 **LITIGATION FUNDING COMPANY'S FUNDED AMOUNT AND CONTRACTED FEES;**  
19 **OR**

20           **(6) OFFER SINGLE PREMIUM CREDIT LIFE, DISABILITY, OR**  
21 **UNEMPLOYMENT INSURANCE THAT IS TO BE FINANCED THROUGH A CIVIL**  
22 **LITIGATION FUNDING TRANSACTION.**

23           **(B) FUNDING PROVIDED TO A CONSUMER MAY NOT BE USED TO PAY**  
24 **ATTORNEY'S FEES OR COSTS.**

25           **(C) THE PROCEEDS OF AN UNDERLYING LEGAL CLAIM MAY NOT BE**  
26 **PURCHASED MORE THAN THREE TIMES AFTER THE INITIAL FUNDING.**

27 **7-311. RESERVED.**

28 **7-312. RESERVED.**

29 **PART III. REGISTRATION.**

30 **7-313.**

1           **A CIVIL LITIGATION FUNDING COMPANY MAY NOT DO BUSINESS IN THE**  
2 **STATE UNLESS THE CIVIL LITIGATION FUNDING COMPANY IS REGISTERED WITH**  
3 **THE SECRETARY OF STATE.**

4           **7-314.**

5           **(A) A CIVIL LITIGATION FUNDING COMPANY SHALL SUBMIT AN**  
6 **APPLICATION FOR REGISTRATION TO THE SECRETARY OF STATE IN THE FORM**  
7 **REQUIRED BY THE SECRETARY OF STATE.**

8           **(B) (1) AN APPLICATION FOR REGISTRATION SHALL CONTAIN THE**  
9 **INFORMATION NECESSARY TO ALLOW THE SECRETARY OF STATE, WITH THE**  
10 **ASSISTANCE OF THE DIVISION, TO MAKE AN EVALUATION OF THE CHARACTER,**  
11 **FITNESS, AND FINANCIAL RESPONSIBILITY OF THE COMPANY IN ORDER TO**  
12 **DETERMINE THAT THE BUSINESS WILL BE OPERATED IN ACCORDANCE WITH**  
13 **THIS SUBTITLE.**

14           **(2) FOR PURPOSES OF DETERMINING A CIVIL LITIGATION**  
15 **FUNDING COMPANY'S CHARACTER, FITNESS, AND FINANCIAL RESPONSIBILITY,**  
16 **THE SECRETARY OF STATE SHALL REQUIRE A COMPANY TO SUBMIT:**

17                   **(I) A COPY OF THE COMPANY'S ARTICLES OF**  
18 **INCORPORATION, ARTICLES OF ORGANIZATION, CERTIFICATE OF LIMITED**  
19 **PARTNERSHIP, AND OTHER ORGANIZATIONAL DOCUMENTS;**

20                   **(II) PROOF THAT THE COMPANY HAS A REGISTERED AGENT**  
21 **IN THE STATE IN ACCORDANCE WITH THE CORPORATIONS AND ASSOCIATIONS**  
22 **ARTICLE; AND**

23                   **(III) PROOF OF A SURETY BOND OR IRREVOCABLE LETTER**  
24 **OF CREDIT ISSUED AND CONFIRMED BY A FINANCIAL INSTITUTION AUTHORIZED**  
25 **BY LAW TO TRANSACT BUSINESS IN THE STATE THAT IS DOUBLE THE AMOUNT**  
26 **OF THE LARGEST FUNDING IN THE STATE IN THE PREVIOUS CALENDAR YEAR OR**  
27 **\$50,000, WHICHEVER IS GREATER.**

28           **(C) (1) A CIVIL LITIGATION FUNDING COMPANY MAY APPLY TO**  
29 **RENEW A REGISTRATION BY SUBMITTING AN APPLICATION FOR RENEWAL IN**  
30 **THE FORM REQUIRED BY THE SECRETARY OF STATE.**

31                   **(2) THE APPLICATION FOR RENEWAL SHALL CONTAIN CURRENT**  
32 **INFORMATION ON ALL MATTERS REQUIRED IN AN ORIGINAL APPLICATION FOR**  
33 **REGISTRATION.**

34           **(D) AN APPLICATION FILED UNDER THIS SECTION IS A PUBLIC RECORD.**

1 **7-315.**

2 (A) THE SECRETARY OF STATE MAY, IN CONSULTATION WITH THE  
3 DIVISION, BY REGULATION, ESTABLISH FEES FOR APPLICATIONS FOR  
4 REGISTRATION AND RENEWALS OF REGISTRATION AT RATES SUFFICIENT TO  
5 COVER THE COSTS OF ADMINISTERING THIS SUBTITLE, INCLUDING THE  
6 DIVISION'S COSTS.

7 (B) AN APPLICATION FOR REGISTRATION OR RENEWAL OF  
8 REGISTRATION SHALL BE ACCOMPANIED BY THE APPLICABLE FEE.

9 **7-316.**

10 (A) THE SECRETARY OF STATE SHALL ISSUE A CERTIFICATE OF  
11 REGISTRATION TO A CIVIL LITIGATION FUNDING COMPANY THAT COMPLIES  
12 WITH § 7-314 OF THIS SUBTITLE.

13 (B) THE SECRETARY OF STATE MAY REFUSE TO ISSUE A CERTIFICATE  
14 OF REGISTRATION IF THE SECRETARY OF STATE DETERMINES THAT THE  
15 CHARACTER, FITNESS, OR FINANCIAL RESPONSIBILITY OF THE CIVIL  
16 LITIGATION FUNDING COMPANY WARRANTS BELIEF THAT THE BUSINESS WILL  
17 NOT BE OPERATED IN ACCORDANCE WITH THIS SUBTITLE.

18 (C) THE SECRETARY OF STATE MAY SUSPEND, REVOKE, OR REFUSE TO  
19 RENEW A CERTIFICATE OF REGISTRATION FOR CONDUCT THAT WOULD HAVE  
20 JUSTIFIED DENIAL OF REGISTRATION OR FOR VIOLATING PART II OF THIS  
21 SUBTITLE.

22 (D) THE SECRETARY OF STATE MAY DENY, SUSPEND, REVOKE, OR  
23 REFUSE TO RENEW A CERTIFICATE OF REGISTRATION ONLY AFTER PROPER  
24 NOTICE AND AN OPPORTUNITY FOR A HEARING IN ACCORDANCE WITH THE  
25 ADMINISTRATIVE PROCEDURE ACT.

26 (E) IF THE SECRETARY OF STATE DENIES, SUSPENDS, REVOKES, OR  
27 REFUSES TO RENEW A CERTIFICATE OF REGISTRATION, THE SECRETARY OF  
28 STATE SHALL NOTIFY THE DIVISION, WHICH MAY TAKE APPROPRIATE  
29 ENFORCEMENT ACTION UNDER TITLE 13 OF THE COMMERCIAL LAW ARTICLE.

30 (F) THE SECRETARY OF STATE MAY ISSUE A TEMPORARY CERTIFICATE  
31 OF REGISTRATION WHILE AN APPLICATION FOR REGISTRATION OR RENEWAL OF  
32 REGISTRATION IS PENDING.

33 **7-317.**

1           **ON OR BEFORE SEPTEMBER 1 OF EACH YEAR, EACH REGISTERED CIVIL**  
2 **LITIGATION FUNDING COMPANY SHALL REPORT THE FOLLOWING INFORMATION**  
3 **FOR THE PREVIOUS FISCAL YEAR TO THE SECRETARY OF STATE, IN THE FORM**  
4 **REQUIRED BY THE SECRETARY OF STATE:**

5                   **(1) THE NUMBER OF NONRECOURSE CIVIL LITIGATION FUNDING**  
6 **TRANSACTIONS WITH CONSUMERS IN THE STATE AND THE AMOUNT OF FUNDS**  
7 **PAID TO EACH CONSUMER;**

8                   **(2) THE FEES CHARGED TO CONSUMERS; AND**

9                   **(3) (I) THE NUMBER OF CASES RESOLVED IN WHICH THE**  
10 **AMOUNT REALIZED BY THE CIVIL LITIGATION FUNDING COMPANY WAS LESS**  
11 **THAN THE AMOUNT STATED IN THE CONTRACT WITH THE CONSUMER; AND**

12                           **(II) FOR EACH CASE IN WHICH THE AMOUNT REALIZED BY**  
13 **THE CIVIL LITIGATION FUNDING COMPANY WAS LESS THAN THE AMOUNT**  
14 **STATED IN THE CONTRACT WITH THE CONSUMER, THE DOLLAR AMOUNT THAT**  
15 **WAS REALIZED.**

16 **7-318.**

17           **(A) THE SECRETARY OF STATE SHALL ADOPT REGULATIONS TO CARRY**  
18 **OUT THIS SUBTITLE, INCLUDING REGULATIONS TO ESTABLISH A PROCESS TO**  
19 **ADDRESS CONSUMER COMPLAINTS.**

20           **(B) ON OR BEFORE DECEMBER 1 OF EACH YEAR, THE SECRETARY OF**  
21 **STATE SHALL REPORT TO THE HOUSE JUDICIARY COMMITTEE AND THE**  
22 **SENATE JUDICIAL PROCEEDINGS COMMITTEE IN ACCORDANCE WITH § 2-1246**  
23 **OF THE STATE GOVERNMENT ARTICLE, ON:**

24                   **(1) THE IMPLEMENTATION OF THE REGISTRATION OF CIVIL**  
25 **LITIGATION FUNDING COMPANIES;**

26                   **(2) THE AGGREGATE INFORMATION REPORTED UNDER THIS**  
27 **SUBSECTION; AND**

28                   **(3) THE STATUS OF ANY CONSUMER COMPLAINTS AGAINST CIVIL**  
29 **LITIGATION FUNDING COMPANIES.**

30           **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**  
31 **October 1, 2011.**