

Department of Legislative Services
Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1298
Economic Matters

(Delegate A. Johnson)

Third-Party Litigation Financing - Licensing and Regulation

This bill establishes a regulatory framework for third-party “litigation financing” and generally establishes that a litigation financier may not provide litigation financing unless the financier is licensed as a consumer lender under the Maryland Consumer Loan Law (MCLL) or related provisions. The bill specifies entities and activities subject to regulation, establishes licensing requirements for a litigation financier, and requires disclosure of a litigation financing contract in certain civil actions. The Office of Financial Regulation (OFR) is authorized to enforce the bill and adopt regulations necessary to carry out the provisions of the bill. The bill applies only prospectively and may not be applied or interpreted to have any effect on (or application to) any litigation financing contract, as defined by the bill, entered into before the bill’s effective date. The bill’s provisions are severable.

Fiscal Summary

State Effect: The bill does not materially affect State finances or operations. OFR can likely enforce the bill with existing resources.

Local Effect: The bill does not directly affect local government operations or finances.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: The bill establishes the intent of the General Assembly to promote consumer protection and transparency in third-party litigation financing transactions through the licensing, regulation, and disclosure requirements established under the bill.

Definitions

“Litigation financier” means a person or group of persons engaged in or formed, created, or established for the purpose of engaging in the business of litigation financing or any other business or economic activity in which a person or group of persons receives consideration of any kind in exchange for providing litigation financing.

“Litigation financing” means the financing, funding, advancing, or loaning of money to a consumer if:

- the repayment of all (or any portion) of the amount financed, funded, advanced, or loaned is (1) contingent on the outcome of a civil action or (2) required only if the consumer prevails in a civil action; or
- the money or funds for the repayment of any amount of financing, funding, advance, or loan is derived or sourced (directly or indirectly) from the proceeds or other consideration realized from any judgment, award, settlement, verdict, or other form of monetary relief the consumer may receive or recover in relation to a civil action.

“Litigation financing contract” means a written contract in which a litigation financier agrees to provide litigation financing to a consumer in conjunction with a civil action as consideration for:

- repayment of the litigation financing;
- the payment of interest, fees, or other consideration to the litigation financier; or
- assigning to the litigation financier a right to receive payment from the value of (1) any proceeds or other consideration realized from any judgment, award, settlement, or verdict or (2) any other form of monetary relief a consumer, a legal representative, or any other person may receive or recover in relation to the civil action.

Notably, “litigation financing contract” does not include an agreement, a contract, or an engagement of a legal representative to render legal services to a consumer on a contingency fee basis – including the advancement of legal costs by the legal representative in which the services or costs are provided to (or on behalf of) a consumer by the legal representative who is representing the consumer in a civil action.

Disclosure in a Civil Action

Except as otherwise stipulated or ordered by a court, a party in a civil action must, without waiting for a discovery request, provide to each of the other parties in the civil action and each insurer that has a duty to defend another party in the civil action any litigation

financing contract under which a litigation financier has a right to receive compensation that is contingent in any respect on the outcome of the civil action. This disclosure is required regardless of whether a civil action has formally commenced and is also a continuing obligation, as specified.

Within 30 days after entering into a litigation financing contract or amending an existing contract, a party in a civil action must disclose and deliver a new or amended litigation financing contract to all other parties in the civil action and each insurer that has a duty to defend another party in the civil.

Permissible Subjects of Discovery

The following information is deemed a permissible subject of discovery in any civil action for which litigation financing is provided under a litigation financing contract, regardless of whether civil action has formerly commenced:

- the existence of a litigation financing contract;
- each participant or party to the litigation financing contract; and
- the contents of the litigation financing contract.

Current Law: State law does not generally regulate litigation financing, as defined by the bill.

Interest and Usury (Title 12, Subtitle 1 of the Commercial Law Article)

Loans made under the Interest and Usury subtitle generally cap interest rates at 24%. Any lender who knowingly and willfully violates the permitted interest charges is guilty of a misdemeanor and on conviction is subject to a fine of up to \$500 and/or imprisonment for up to six months.

Maryland Consumer Loan Law, Generally

MCLL is divided between Title 11 of the Financial Institutions Article (licensing provisions) and Title 12 of the Commercial Law Article (lending provisions). The licensing provisions generally require that a person must be licensed by OFR before making a loan or in any way use any advantage provider by MCLL. A “loan” is any loan or advance of money or credit subject to the MCCL provisions of the Commercial Law Article. OFR advises that it has typically considered litigation financing products offered to consumers to be loans.

The MCLL lending provisions apply to a loan or advance of money of \$25,000 or less for personal, family, or household purposes – regardless of whether the loan or advance is (or

HB 1298/ Page 3

purports to be) another type of product. In addition, a person may not lend \$25,000 or less if interest on a loan exceeds the amount authorized by Maryland law, the transaction violates the federal Military Lending Act, or the person is not licensed (or exempt). Loans made under MCLL generally cap interest at 33% with a balance of \$2,000 or less and 24% with a balance of more than \$2,000.

MCLL does not apply to (1) a plan or loan for which a written election has been made under other provisions of law relating to interest and usury, secondary mortgage loans, revolving credit, and closed end credit transactions; (2) a loan made by an individual who makes three or fewer loans per year and is not engaged in the business of making loans; or (3) a loan between an employer and an employee.

Small Business Effect: Any small businesses that engage in third-party litigation financing (or receive compensation through such a process) must comply with the regulatory framework established by the bill (including paying licensing fees) and may, as a result, be meaningfully affected by the bill.

Additional Information

Recent Prior Introductions: Similar legislation has been introduced within the last three years. See SB 985 of 2025.

Designated Cross File: SB 894 (Senator Gile) - Finance.

Information Source(s): Judiciary (Administrative Office of the Courts); Maryland Department of Labor; Department of Legislative Services

Fiscal Note History: First Reader - February 26, 2026
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