



**Testimony of**  
**American Property Casualty Insurance Association (APCIA)**  
**Senate Finance Committee**  
**Senate Bill 985 - Consumer Protection- Third-Party Litigation Financing**  
**March 6, 2025**

**Favorable**

The American Property Casualty Insurance Association (APCIA) is the primary national trade organization representing nearly 66.9% of the personal auto market, 82.4% of commercial auto, and 75.4% of commercial general liability in the Maryland property casualty insurance market. Senate Bill 985 would put into statute the regulation of third party litigation financing (TPLF) including requiring that the contracts contain certain disclosures to the consumer as well as disclosures of the TPLF agreement in civil cases and imposing a fiduciary duty on litigation financiers in certain class actions.

Third party litigation financing is where outsiders invest in lawsuits in exchange for a portion of the recovery. With respect to consumer litigation financing. Lenders provide immediate cash to individuals who are awaiting settlements or verdicts, typically in personal injury lawsuits. Unlike commercial TPLF, which funds the litigation expenses themselves, consumer TPLF provides money directly to a plaintiff (rather than a law firm) and funds a plaintiff's personal expenses during litigation, rather than funds the litigation itself. They are sometimes advertised as "cash for lawsuits."

The consumer litigation funding industry representatives say that the average lawsuit loan is about \$2,000,<sup>1</sup> but the amounts can be far greater. A quick internet search for companies offering consumer litigation funding in Maryland found that one company offered up to \$2 million. This type of TPLF is regulated by the Office of Consumer Regulation but has not been specified in statute but is the OFR's practice. The Office of Financial Regulation reached a settlement agreement with Oasis Legal Finance, LLC in August of 2009 regarding this type of loan and stated that Oasis could not operate unless licensed with the OFR and any lending rate of return was subject to CL Section 12-306. (See attached) The OFR has provided some amendment language to HB 1274 to clarify the licensing obligation and appears at the end of the testimony.

Another form of litigation financing, commercial TPLF, funds the litigation expenses themselves. We have seen a proliferation of third parties investing money in litigation, viewing the civil justice system not as a way of resolving disputes and providing fair compensation, but purely as a profit-making opportunity. Dedicated litigation finance firms, hedge funds, institutional investors, foreign sovereign wealth funds, and wealthy individuals are investing billions of dollars each year into funding U.S. lawsuits in exchange for a portion of a settlement or verdict. Major litigation funders alone had more than \$15 billion invested in U.S. litigation in 2023.<sup>2</sup> TPLF investment are projected double to about \$30 billion over the next few years.<sup>3</sup> As one study found, in U.S. TPLF cases, up to 57% of legal costs and compensation go to lawyers, financiers and others, compared with an

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<sup>1</sup> See, e.g., [Testimony of Eric Schuller](#), President, The Alliance for Responsible Consumer Legal Funding (ARC), Before the Kansas House Committee on Judiciary, H.B. 2694, Feb. 15, 2022.

<sup>2</sup> Westfleet Advisors, [The Westfleet Insider: 2023 Litigation Finance Market Report](#), at 3 (2024).

<sup>3</sup> Swiss Re Institute, [U.S. Litigation Funding and Social Inflation](#), at 8 (Dec. 2021).

average of 45% in cases where TPLF is not involved.<sup>4</sup>

An outside funder's presence can turn what is traditionally a negotiation between two opposing parties into a multi-party affair with a "behind the scenes" funder interested solely in maximizing a return on investment. These TPLF arrangements can create serious ethical and other problems. Outside funders can interfere in an attorney's ethical obligation to the client and to exercise independent judgment. Funders may exert control over potential case settlements or other major litigation decisions in place of the law firm's client. We've seen this occur in antitrust litigation, where a major funder, Burford, blocked proposed settlements as too low and sought to take over the litigation.<sup>5</sup> One major funder even stated that their presence "make[s] it harder and more expensive to settle cases."<sup>6</sup>

This bill protects consumers and provides needed transparency. It requires certain disclosures so that consumer will have a better sense of how much these small loans will ultimately cost. The OFR has provided the following friendly amendment language to emphasize that these TPLF must be licensed by the OFR.

**Amendment language provided by the Office of Financial Regulation:**

**Add as a definition in 14-5001**

***"Commissioner" means the Commissioner of Financial Regulation in the Maryland Department of Labor.***

**Add as new 14-5010**

***Licensing***

***(a) (1) A Litigation Financier is subject to the licensing, investigatory, enforcement, and penalty provisions of this subtitle, Title 2, Subtitle 1 of the Financial Institutions Article, and Title 11, Subtitle 3 of the Financial Institutions Article.***

***(2) The licensing provisions of this subtitle do not apply to a person excluded from this subtitle by §14-5003.***

***(b)(1) A license required by this subtitle shall be issued by the Commissioner under Title 11, Subtitle 3 of the Financial Institutions Article.***

***(2) The unique identifier of the licensee shall constitute the license number for the license.***

**Change existing 14-5010 to 14-5011**

Most importantly, the bill requires disclosure of litigation financing contracts, treating such agreements in the same manner as how Maryland requires disclosure of insurance agreements which includes policy limits and the policy terms. This allows all parties to have an understanding of who has a financial interest in the litigation and is potentially influencing its direction and settlement, and allowing them to alert the court, if the agreement raises ethical or other issues. In the consumer lawsuit loan context, this transparency will inform the consumer

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<sup>4</sup> <https://www.swissre.com/reinsurance/insights/third-party-litigation-funding.html>; f

<sup>5</sup> See Editorial, *The Litigation Finance Snare*, Wall St. J., Mar. 21, 2023; Hannah Albarazi, *When a Litigation Funder is Accused of Taking Over the Case*, Law360, Mar. 15, 2023. A federal magistrate judge in Minnesota observed that Burford's actions created an "enormous" litigation burden for Sysco and caused "serious practical problems" that proposed to "allow a financier with no interest in the litigation beyond maximizing profit on its investment to override decisions made by the party that actually brought suit." *In re Pork Antitrust Litig.*, No. 18-cv-1776 (JRT/JFD), 2024 WL 511890, at \*1 (D. Minn. Feb. 9, 2024), *aff'd*, 2024 WL 2819438 (D. Minn. June 3, 2024). The federal judge that affirmed that ruling also noted that an agreement allowing a funder to take over litigation "threatens the public policy favoring the settlement of lawsuits." *In re Pork Antitrust Litig.*, 2024 WL 2819438, at \*4 (D. Minn. June 3, 2024).

<sup>6</sup> Jacob Gershman, *Lawsuit Funding, Long Hidden in the Shadows, Faces Calls for More Sunlight*, Wall St. J., Mar. 21, 2018 (quoting Allison Chock, chief investment officer for IMF Benthams U.S. division (now Omni Bridgeway)).

as well. In requiring disclosure of third party litigation funding and adopting other safeguards, Maryland will join other states that have taken similar steps in recent years, such as Indiana, Louisiana, Montana, West Virginia, Wisconsin. Legislation is also pending in 11 other states..<sup>7</sup> The US District Court for the District of Maryland has a rule requiring that TPLF be disclosed during litigation.<sup>8</sup>

APCIA supports this legislation and urges the Committee to issue a favorable report. Thank you for your consideration.

Nancy J. Egan,

State Government Relations Counsel, DC, DE, MD, VA, WV

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Attachments: Amendment; Oasis consent decree

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<sup>7</sup> <https://www.swissre.com/reinsurance/insights/third-party-litigation-funding.html>; f

<sup>8</sup> District of Maryland L.R. 103.3(b) ("When filing an initial pleading... counsel shall file a statement (separate from any pleading) containing...[t]he identity of any corporation, unincorporated association, partnership, or other business entity, not a party to the case, which may have any financial interest whatsoever in the outcome of the litigation, and the nature of its financial interest.").

**Amendment language provided by the Office of Financial Regulation:**

**Add as a definition in 14-5001**

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***Licensing***

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**Change existing 14-5010 to 14-5011**

**IN THE MATTER OF:**

**OASIS LEGAL FINANCE, LLC**

**Respondent**

\* **BEFORE THE MARYLAND**  
\* **COMMISSIONER OF**  
\* **FINANCIAL REGULATION**  
\*  
\* **DFR-EU-2008-241**  
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**SETTLEMENT AGREEMENT AND CONSENT ORDER**

This Settlement Agreement and Consent Order ("Agreement") is entered into this 6<sup>th</sup> day of **August, 2009**, by and between the Maryland Commissioner of Financial Regulation (the "Commissioner") and Oasis Legal Finance, LLC ("Oasis"), 40 North Skokie Boulevard, Suite 500, Northbrook, Illinois 60062.

WHEREAS, the Commissioner is charged under the Maryland Consumer Loan Law, Commercial Law Article ("CL"), Title 12, Subtitle 3, Annotated Code of Maryland, and Financial Institutions Article ("FI"), Title 11, Subtitle 2, Annotated Code of Maryland, with the responsibility of licensing and regulating consumer loans and advances in this State; and

WHEREAS, as a result of two complaints and an investigation by the Office of the Commissioner, it was alleged that Oasis engaged in the business of making loans or advances to Maryland consumers without the proper licenses under Maryland law; and

WHEREAS, in connection with these allegations, the Commissioner of Financial Regulation issued a Summary Order to Cease and Desist to Oasis on March 9, 2009, in which Oasis was ordered to cease and desist from engaging in the business of making advances to Maryland residents; and

WHEREAS, the Commissioner desires to ensure that Oasis will comply with all applicable licensing requirements and other provisions of Maryland law and regulations applicable to the making of advances in this State, and desires to avoid the cost to the taxpayers of lengthy hearings, court proceedings and appeals resulting from a litigated disposition of these allegations; and

WHEREAS, Oasis denies the allegations in the Summary Order to Cease and Desist issued to Oasis on March 9, 2009, and denies any liability under the Maryland Consumer Loan Law, or any other State laws or regulations applicable to lending in Maryland, and continues to assert that these transactions are non-recourse civil litigation funding transactions, that these are not "loans or advances" under the Commissioner's jurisdiction under current Maryland law, but has voluntarily entered into this Settlement Agreement and also desires to avoid the cost of a hearing and potential court proceedings resulting from a litigated disposition of these allegations; and

WHEREAS, Oasis acknowledges that it has voluntarily entered into this Agreement with full knowledge of its right to a hearing on the allegations set forth herein, pursuant to FI §§ 2-115(a) and 11-215(b), and the Maryland Administrative

Procedures Act (Md. Code Ann., State Gov't Article § 10-201 *et seq.*), and hereby waives its right to a hearing, and Oasis further acknowledges that it had an opportunity to consult with independent counsel in connection with its waiver of rights and negotiation and execution of this Agreement and has, in fact, consulted with its own counsel; and

NOW, THEREFORE, in consideration of the mutual promises contained herein, it is by the Maryland Commissioner of Financial Regulation, on the day and year first above written, hereby ORDERED that:

1. The Recitals set forth above are and shall form a part of this Agreement.

2. The Commissioner hereby vacates the Summary Cease and Desist Order issued to Oasis on March 9, 2009, and will withdraw the currently scheduled hearing from the Office of Administrative Hearings docket.

3. The Commissioner agrees that she will not bring an enforcement action of any kind, civil or administrative, against Oasis or against its officers, Board of Managers, employees, or investors, for any conduct related to the investigation referred to in the Summary Order to Cease and Desist issued to Oasis on March 9, 2009.

4. Oasis acknowledges that, as of the date it received the Summary Order to Cease and Desist, it has not engaged in any new transactions of the type described in the Summary Order to Cease and Desist, and it agrees that it will not

do business in Maryland as long as the current law is in effect in Maryland (or unless it chooses to get licensed as the Commissioner currently alleges that it must do).

5. Oasis will pay a settlement amount of \$105,000.00 in full and complete satisfaction of all penalties that could have been assessed in connection with the facts and circumstances that were the subject of the investigation and Summary Order to Cease and Desist.

6. Oasis acknowledges that, in the event it violates any provision of this Agreement, the Maryland Consumer Loan Law, or any other State laws or regulations applicable to lending in Maryland, the Commissioner may, at the Commissioner's discretion, take such enforcement actions as are permitted by, and are in accordance with, applicable law.

7. The Commissioner will permit Oasis to conclude all pending transactions with Maryland consumers [which Oasis characterizes as non-recourse civil litigation funding transactions], including those currently in escrow, by collecting the funded amount plus a rate of return not to exceed the rates set forth in CL §12-306. As defined herein, "Maryland consumers" and "do business in Maryland" shall refer to transactions involving Maryland residents only.

8. This Agreement constitutes the complete resolution of a disputed matter and does not constitute nor shall it be deemed an admission by Oasis, or by its officers, Board of Managers, employees, or investors, of liability or a violation,

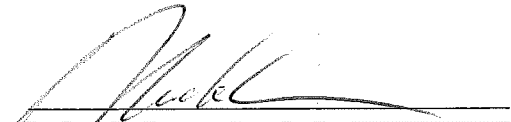


willful or otherwise, of Maryland law.

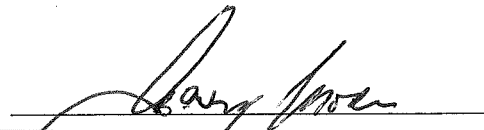
9. Oasis acknowledges that this Agreement is considered a Final Order of the Commissioner for the purposes of any future action by the Commissioner under the appropriate regulatory laws of the State of Maryland.

IN WITNESS WHEREOF, this Agreement is executed on the day and year first above written.

**COMMISSIONER OF FINANCIAL  
REGULATION**

  
By. Mark Kaufman  
Deputy Commissioner

**OASIS LEGAL FINANCE, LLC**

  
By. Gary D. Chodes  
Chief Executive Officer,  
Oasis Legal Finance, LLC