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Finance Committee

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THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

Testimony In Support of SB 894

Third-Party Litigation Financing – Licensing and Regulation

Madam Chair, Mr. Vice Chair, and Members of the Committee:

Senate Bill 894 addresses the growing practice of third party litigation financing, or TPLF, and its impact on Maryland consumers and our civil justice system.

TPLF generally takes two forms: commercial financing and consumer financing. Both involve advancing funds in exchange for a portion of the proceeds from a settlement, judgment, or verdict, and both often include significant interest rates and fees.

Commercial TPLF typically consists of non-recourse funding provided directly to a plaintiff's attorney or law firm. SB 894 does not address commercial litigation financing. Instead, this bill is narrowly focused on consumer TPLF.

Consumer TPLF involves non-recourse funding provided directly to an individual claimant, usually to cover living expenses while a tort or personal injury claim is pending. If the case is unsuccessful, the consumer has no obligation to repay the advance. If the consumer prevails, however, repayment includes not only the principal advance but also interest and fees, which can be substantial.

Maryland's Office of Financial Regulation has already determined that these consumer litigation funding transactions constitute loan products under Maryland law. SB 894 codifies that determination and ensures these transactions are regulated consistently within Maryland's existing consumer lending framework.

Specifically, the bill:

- Requires litigation financiers to be licensed under Maryland lending laws
- Clarifies that consumer litigation financing constitutes a loan for purposes of Maryland law

- Requires disclosure of litigation financing agreements in civil actions
- Permits the existence and contents of those agreements to be subject to discovery
- Authorizes the Commissioner to adopt regulations necessary to implement these provisions

SB 894 does not prohibit litigation funding, nor does it interfere with contingency fee arrangements between attorneys and their clients. It simply ensures that when funds are advanced directly to Maryland consumers, those transactions are transparent and subject to the same consumer protections that apply to other lending products.

SB 894 promotes transparency in civil litigation and protects Maryland consumers from unregulated, high cost lending practices presented as litigation advances. I have submitted a minor sponsor amendment which is a simple deletion of language that does not apply to consumer TPLF.

For these reasons, I respectfully request a favorable report on Senate Bill 894.