

2012 -- H 7521

=====
LC01538
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

—————
A N A C T

RELATING TO COURTS AND CIVIL PROCEDURE -- LITIGATION LENDING
AGREEMENTS

Introduced By: Representatives Marcello, Petrarca, Keable, Lima, and Blazejewski

Date Introduced: February 15, 2012

Referred To: House Corporations

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 litigants in return for payment from litigation proceeds at effective annual interest rates
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 insure litigation-funding advances conform to state laws
13 regarding usurious loans.

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

1 of their 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 LLA, greater than the amount received by the litigant under the LLA,
4 shall be considered interest on loans within the purview of chapter 6-26-2 of the general laws,
5 entitled, “Maximum rate of interest” regardless of:

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

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

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

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

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

=====
LC01538
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO COURTS AND CIVIL PROCEDURE -- LITIGATION LENDING
AGREEMENTS

- 1 This act would make litigation lending agreements subject to state usury statutes.
- 2 This act would take effect upon passage.

=====
LC01538
=====