

2018 -- S 2457

=====  
LC004047  
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

—————  
A N A C T

RELATING TO COURTS AND CIVIL PROCEDURE -- PROCEDURE GENERALLY --  
LITIGATION LENDING AGREEMENTS

Introduced By: Senators Lombardi, Lynch Prata, Goodwin, Nesselbush, and Conley

Date Introduced: February 15, 2018

Referred To: Senate Judiciary

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.**

7 The general assembly finds and declares that:

8 (1) Litigation financing contracts are being entered into where companies advance money  
9 to a litigant in return for payment from litigation proceeds at effective annual interest rates far  
10 exceeding state usury limits; and

11 (2) The contracts often bear annual interest rates over one hundred percent (100%); and

12 (3) The rates are detrimental to the general welfare of the citizens of this state and it is  
13 necessary to enact legislation to ensure that litigation-funding advances conform to state laws  
14 regarding usurious loans.

15 **9-3.1-2. Litigation lending agreement defined.**

16 A "litigation lending agreement" (LLA) is any agreement whereby monies are paid to  
17 parties to civil litigation (litigants) in consideration for a litigant's agreement to repay these  
18 monies (with or without interest, one-time charges, use fees, or any other add-on charges) from

1 the proceeds of the litigation. Not included in the definition of an LLA are advancements of  
2 expenses of litigation made by attorneys on behalf of their clients, as permitted by rule 1.8(e) of  
3 the Rhode Island rules of professional conduct.

4 **9-3.1-3. Litigation advances considered loans pursuant to state usury law.**

5 All payments made by a litigant under an LLA greater than the amount received by the  
6 litigant under the LLA shall be considered interest on loans subject to the provisions of chapter 26  
7 of title 6 ("interest and usury") regardless of:

8 (1) Whether an LLA characterizes itself as a "loan," an "advance," an "investment," an  
9 "assignment of proceeds," or any other characterization;

10 (2) Whether monies to be repaid under the LLA are called "interest," "use fees," or any  
11 other term;

12 (3) Whether the amount received by the litigant under the LLA otherwise exceeds any  
13 monetary limit for loans falling within chapter 26 of title 6; and

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

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

=====  
LC004047  
=====

EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

RELATING TO COURTS AND CIVIL PROCEDURE -- PROCEDURE GENERALLY --  
LITIGATION LENDING AGREEMENTS

\*\*\*

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

=====  
LC004047  
=====