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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

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

Introduced By: Representatives Baginski, Potter, Dawson, Solomon, J. Brien, and McEntee

Date Introduced: February 10, 2023

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

SECTION 1. Title 9 of the General Laws entitled "COURTS AND CIVIL PROCEDURE -- PROCEDURE GENERALLY" is hereby amended by adding thereto the following chapter:

CHAPTER 3.1

LITIGATION LENDING AGREEMENTS

9-3.1-1. Legislative findings.

The general assembly finds and declares that:

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

(2) These contracts often bear annual interest rates which exceed one hundred percent (100%); and

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

9-3.1-2. Litigation lending agreement defined.

A "litigation lending agreement" (LLA) is any agreement whereby monies are paid to parties to civil litigation (litigants) in consideration for a litigant's agreement to repay these monies (with or without interest, one-time charges, use fees, or any other add-on charges) from the proceeds of the litigation. Not included in the definition of an LLA are advancements of expenses of litigation made by attorneys on behalf of their clients, as permitted by rule 1.8(e) of the Rhode Island rules of professional conduct.

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

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

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

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

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

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

SECTION 2. This act shall take effect upon passage.

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EXPLANATION

BY THE LEGISLATIVE COUNCIL

OF

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This act would make litigation loan agreements subject to state usury laws.

This act would take effect upon passage.

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