

S.3

Introduced by Senator Sears

Referred to Committee on

Date:

Subject: Financing; consumer litigation funding companies; licensing

Statement of purpose of bill as introduced: This bill proposes to regulate and license companies that advance funds to cover the expenses of consumers with a pending legal claim, in exchange for the right to receive a portion of the proceeds recovered by the consumer in the action, if any.

An act relating to licensing consumer litigation funding companies

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 8 V.S.A. § 2201(a) is amended to read:

(a) ~~No person shall without~~ Without first obtaining a license under this chapter from the Commissioner, a person shall not:

(1) engage in the business of making loans of money, credit, goods, or things in action and charge, contract for, or receive on any such loan interest, a finance charge, discount, or consideration therefor;

(2) act as a mortgage broker;

(3) engage in the business of a mortgage loan originator; ~~or~~

(4) act as a sales finance company; or

1 (5) act as a consumer litigation funding company, as defined in section
2 2201a of this chapter.

3 Sec. 2. 8 V.S.A. § 2201a is added to read:

4 § 2201a. CONSUMER LITIGATION FUNDING

5 (a) Purpose. In an effort to promote consumer protections related to
6 consumer litigation funding transactions, consumer litigation funding
7 companies are subject to State regulations like other licensed lenders subject to
8 this chapter, except as otherwise provided in this section.

9 (b) Definitions. As used in this section:

10 (1) “Consumer” means a natural person who is seeking or has obtained
11 consumer litigation funding for a pending legal claim, provided:

12 (A) the claim is in Vermont; or

13 (B) the person resides or is domiciled in Vermont.

14 (2) “Consumer litigation funding” or “funding” means a nonrecourse
15 transaction in which a consumer litigation funding company purchases and a
16 consumer assigns to the company a contingent right to receive an amount of
17 the proceeds of a settlement or judgment obtained from the consumer’s legal
18 claim. If no proceeds are obtained, the consumer is not required to repay the
19 company the funded amount, any fees or charges, or any other sums.

20 (c) Requirements. Except as otherwise provided in this section, a company
21 is subject to the requirements of this chapter. A company shall pay to the

1 Commissioner the application, investigation, and renewal fees specified in
2 subdivisions 2202(b)(1) and 2209(a)(1) of this chapter. A company is not
3 subject to the provisions of this chapter that apply only to a mortgage broker or
4 a mortgage loan originator, or both, and do not apply to other lenders licensed
5 under this chapter.

6 (d) Rate of interest. Notwithstanding any other provision of law to the
7 contrary, consumer litigation funding is not subject to an interest rate cap
8 established by State law or rule.

9 (e) Attorney prohibitions. An attorney or law firm retained by a consumer
10 shall not have a financial interest in the company offering funding to the
11 consumer, nor shall the attorney or law firm receive a referral fee or other
12 consideration from the company in connection with such funding.

13 Sec. 3. EFFECTIVE DATE

14 This act shall take effect on September 1, 2015.