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# Personal Injury Report

## **A Survey Of State Laws Regulating Third-Party Litigation Funding**

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# Commentary

## A Survey Of State Laws Regulating Third-Party Litigation Funding

By  
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*[Editor's Note: Mark Behrens co-chairs Shook, Hardy & Bacon L.L.P.'s Washington, DC-based Public Policy Group. Christopher Appel is a Senior Counsel in the group. Any commentary or opinions do not reflect the opinions of Shook, Hardy & Bacon L.L.P. or LexisNexis® Mealey Publications™. Copyright © 2025 by Mark Behrens and Christopher Appel. Responses are welcome.]*

### Introduction

The rise of commercial third-party litigation funding (TPLF) — in which an investor fronts money to a lawyer or law firm in exchange for a share of the recovery in an individual lawsuit or portfolio of lawsuits — is generating increasing attention and wide-ranging responses.<sup>1</sup> Some courts specifically require disclosure of TPLF as a standard practice<sup>2</sup> or in specific litigations.<sup>3</sup> The federal judiciary's Advisory Committee on Civil Rules has formed a subcommittee to study TPLF in response to calls by the defense bar and civil justice advocates for a nationwide rule requiring TPLF disclosure.<sup>4</sup> Congress has also considered various proposals to regulate TPLF and, most recently, to reform the federal tax treatment of TPLF.<sup>5</sup>

Most TPLF activity, however, has occurred at the state level. In 2025 alone, at least 50 TPLF-related bills were introduced across half of the states, and six states enacted laws regulating TPLF. Since the beginning of 2018, twenty percent of the states have adopted reforms directed at commercial TPLF. This article will discuss five common elements of these proposals and summarize each of the laws that have been enacted.

### Core Elements of TPLF Reforms

State approaches to regulating TPLF vary significantly, but there are some common themes across many of the proposals and enactments.

#### 1. Disclosure of TPLF Arrangements or Agreements

Experts have explained that TPLF investments are “re-shaping every aspect of the litigation process—which cases get brought, how long they are pursued, [and] when are they settled,” yet this quiet transformation of the judicial branch is happening with virtually no oversight or transparency.<sup>6</sup>

TPLF is typically hidden from the court and other parties in the absence of legislation or a special court rule facilitating or mandating its disclosure.<sup>7</sup> Parties can seek disclosure of TPLF through discovery, but courts typically hold that litigation funding materials are “largely irrelevant to the claims and defenses presented, and therefore, not discoverable.”<sup>8</sup> Consequently, the court and other parties may not know whether an outside funder interested in maximizing a return on investment is secretly controlling or influencing important litigation decisions, such as with regard to settlement. The lack of transparency also obscures the scope of outside investment in U.S. litigation.<sup>9</sup>

Many state TPLF reform proposals are focused on creating transparency through TPLF disclosure requirements. The most robust proposals, such as a law in Montana, require automatic disclosure of TPLF agreements to other parties, the court, and any known insurer with a preexisting contractual obligation to

defend or indemnify a party to the action<sup>10</sup> — similar to the initial disclosure requirement in federal courts and most state courts regarding insurance agreements that may be used to satisfy a judgment.<sup>11</sup> Montana's law also provides that all participants in the TPLF contract are permissible subjects of discovery in a civil action, potentially shedding light on provisions that could suggest improper influence or control of litigation decisions by a funder.<sup>12</sup> West Virginia and Wisconsin require mandatory disclosure of TPLF agreements to other parties.<sup>13</sup>

Georgia also has an effective TPLF transparency law. Georgia allows a party to "obtain discovery of the existence and terms" of large-scale funding agreements, so the information should be readily available through discovery even if it is not automatically disclosed.<sup>14</sup> Parties in states that take this approach need to be aware of these provisions and request the information in discovery.

Other approaches are less effective in creating transparency with regard to TPLF. Kansas, for example, requires parties to provide a copy of any TPLF agreement to the court for *in camera* review, but provides for only limited disclosures to opposing parties.<sup>15</sup> Oklahoma provides that a party shall produce any commercial litigation funding agreement upon request, but the language appears limited to the unusual situation where a party (as opposed to the party's lawyer or law firm) enters into a commercial TPLF agreement.<sup>16</sup>

Still other proposals simply codify the status quo, failing to address limitations in the civil rules that generally thwart efforts by parties to obtain TPLF information in discovery. For example, Louisiana provides that the "existence of a litigation financing agreement" is subject to discovery "in accordance with the Code of Civil Procedure and Code of Evidence."<sup>17</sup> Likewise, Colorado law states, "The existence of a litigation financing agreement is subject to discovery pursuant to the Colorado Rules of Civil Procedure and Colorado Rules of Evidence in the civil action to which the litigation financing agreement pertains."<sup>18</sup> Indiana provides that the "contents of the commercial litigation funding agreement" entered into by "a plaintiff" are "subject to discovery under the Indiana Rules of Trial Procedure."<sup>19</sup> These approaches should be avoided because they do not improve TPLF transparency.

## 2. Bar on Funder Control of Litigation Decisions

According to one recent report, "growth in the \$16.1 billion litigation finance industry ... has spurred disputes over who calls the shots in cases."<sup>20</sup> For example, the family of a late art collector seeking \$250 million worth of works by Russian avant-garde artists recently claimed that a litigation funder violated a TPLF agreement and "is refusing to pay legal bills unless it can directly steer the lawsuits."<sup>21</sup>

Many TPLF proposals address third-party litigation funders' potential interference with a case by expressly prohibiting funders from exerting influence or control over litigation decisions including selection of counsel, choice or use of expert witnesses, litigation strategy, and settlement. Arizona, Georgia, and Montana have effective laws that offer a model for states seeking to bar control of litigation decisions by third-party litigation funders.<sup>22</sup>

Colorado and Louisiana took a narrow approach, prohibiting control of litigation decisions by third-party litigation funders that are owned, controlled by, or based in a "foreign country of concern"<sup>23</sup> — referring to the handful of countries that are federally-designated foreign adversaries (i.e., the People's Republic of China, Cuba, Iran, North Korea, Russia, and the Maduro regime in Venezuela). Separately, Louisiana prohibits a "litigation financier" that enters into an agreement "with the party" from deciding, influencing, or directing the party or party's attorney with respect to "the conduct of the underlying civil proceeding or any settlement or resolution" thereof.<sup>24</sup>

Kansas requires a party to certify whether a TPLF arrangement grants a funder control or approval of any litigation decisions, flagging these arrangements for other parties, even if not prohibiting them.<sup>25</sup>

## 3. Bar on Litigation Funding by Foreign Adversaries

A concern reflected in many newer TPLF proposals is the potential for foreign adversaries to "weaponize the courts for strategic goals."<sup>26</sup> Foreign interests may fund lawsuits in the United States to "weaken critical industries" or "obtain confidential materials through the discovery process."<sup>27</sup>

For example, in 2023, it was reported that a Chinese firm is financing a number of intellectual property

lawsuits in the United States – a development a former acting director of the U.S. Patent and Trademark Office described as “our worst fears confirmed” given that “nothing over there is really independent” of the Chinese government.<sup>28</sup> It has also been reported that an investment firm established by Russian billionaires with close connections to Vladimir Putin has funded lawsuits in the United States in violation of international sanctions.<sup>29</sup>

States have responded to these concerns by prohibiting TPLF by federally-designated foreign adversaries (i.e., the People's Republic of China, Cuba, Iran, North Korea, Russia, and the Maduro regime in Venezuela) and entities that are designated as a “threat to critical infrastructure.” A law enacted in Georgia in 2025 is an example.<sup>30</sup> Some states also bar TPLF that is sourced from entities that are controlled by or affiliated with a foreign organization that has been placed on the federal Office of Foreign Assets Control Specially Designated Nationals (SDN) and Blocked Persons List (sanctions list) or is a “foreign terrorist organization.” Laws enacted in 2025 in Arizona and Montana are examples.<sup>31</sup>

Colorado and Louisiana chose not to bar TPLF sourced from foreign adversaries but require the name, address, and citizenship or country of incorporation or registration of any foreign entity from a country of concern that has a financial stake in the outcome of the civil action (or portfolio that includes the civil action) to be disclosed to the attorney general along with a copy of the TPLF agreement.<sup>32</sup>

Montana's 2025 law is notable because it also addresses TPLF sourced from the substantial majority of nations that are not designated as adversarial to the United States. Montana law provides that these foreign entities may engage in litigation financing but must disclose their name, address, and citizenship or country of incorporation or registration to the Secretary of State and provide the Secretary with a copy of any TPLF agreement.<sup>33</sup>

#### **4. Restrictions on Funder Access to Proprietary Information**

A funder's involvement in bankrolling someone else's litigation may include gaining access to confidential information such as a business's trade secrets obtained by a funded party through the discovery process. The Center

for Strategic and International Studies has observed that the lack of transparency regarding TPLF in the U.S. creates “a potential backdoor for foreign powers to access sensitive information that arises from a lawsuit.”<sup>34</sup>

Some TPLF laws address this concern. For example, Montana law provides that a party or an attorney or law firm representing a party may not share any information with a litigation financier that is subject to a court's protective or sealing order or involves proprietary information received in the course of or in conjunction with a legal claim.<sup>35</sup> Colorado allows a third-party litigation funder from the foreign country of concern to access such information but the funder is prohibiting from sharing proprietary information or information affecting national security interests with anyone who is not a party or an attorney.<sup>36</sup> Louisiana took a more modest approach, requiring the attorney general to be notified in writing when a third-party litigation funder from a country of concern has received or is entitled to receive proprietary information or information affecting national security interests as a result of a TPLF agreement.<sup>37</sup>

#### **5. Protections for Funded Parties**

Some TPLF proposals include protections to ensure that the proceeds from lawsuits primarily go to injured consumers and not to opportunistic investors in their litigations. For example, Georgia law provides that a litigation financier cannot contract for or recover an amount that is greater than the proceeds collectively recovered by the plaintiffs after the payment of any attorney's fees and costs owed in connection with the action.<sup>38</sup>

Some TPLF proposals set a maximum percentage recovery that a funder may obtain, such as in Montana, where a litigation financier may not recover a payment that exceeds 25% of the amount of any judgment or settlement that a plaintiff's recovers in a funded civil action.<sup>39</sup>

In addition, several states protect against violations of TPLF laws by providing that litigation funding agreements which fail to comply with state disclosure rules and prohibitions are void<sup>40</sup> and subject to the state's unfair and deceptive trade practices law.<sup>41</sup>

Some TPLF proposals also provide that a litigation funder owes a fiduciary duty to the funded party to en-

sure the funder does not place its interest in profit-maximization above those of the actual party to a lawsuit.<sup>42</sup>

### Overview of Current State TPLF Reform Laws

Most of the laws that have been enacted or considered in the states incorporate some of the core reforms discussed above, but as the summaries below demonstrate, there is a lot of uniqueness too.

#### Arizona

Arizona enacted legislation in 2025 to prohibit certain conduct by litigation financiers in actions commencing on or after December 31, 2025.<sup>43</sup>

Litigation financiers are prohibited from directing or making litigation decisions, including decisions regarding legal strategy, selection of counsel, choice or use of experts, or settlement. Named parties and counsel of record “shall retain all rights to control and decision-making with regard to the action.”<sup>44</sup>

In class actions and multidistrict litigations, if there has been a *prior* disclosure of the existence of litigation financing, the court shall consider the existence of litigation financing and any related conflicts of interest when determining whether a class representative or class counsel would adequately and fairly represent the interests of the class or when approving or appointing counsel to leadership positions.<sup>45</sup> Otherwise, the legislation does not address TPLF disclosure.

A litigation financier may not pay or offer to pay a commission to a lawyer, law firm, or licensed health care provider for referring a person to the litigation financier without prior written disclosure and acceptance by the potential borrower, including the amount of the fee to be paid for the referral.<sup>46</sup> In a class action, the acknowledgment and acceptance shall be made by the class representative or the named plaintiffs.

A litigation financier may not provide funding in connection with a litigation funding agreement that is directly or indirectly financed by a “foreign entity of concern.”<sup>47</sup> This is a limited prohibition as the bill narrowly defines the term to be an entity that is controlled by or based in one of the handful of countries that has either been designated in the referred regulation<sup>48</sup> as adversarial to the United States (i.e., the People’s Republic of China, Cuba, Iran, North Korea, Russia, and the Maduro regime in Venezuela) or des-

ignated by the federal government or the governor as a “threat to critical infrastructure.”<sup>49</sup> The legislation also prevents TPLF that is sourced from an entity that is controlled by or affiliated with a foreign organization that has been placed on the federal Office of Foreign Assets Control Specially Designated Nationals (SDN) and Blocked Persons List or is a “foreign terrorist organization.”<sup>50</sup>

Litigation funding agreements that violate these requirements are voidable.<sup>51</sup> A litigation financier who knowingly violates these requirements commits an unlawful practice under Arizona’s consumer fraud statute.<sup>52</sup> Only the state’s attorney general or the parties to the litigation are authorized to challenge a litigation financing agreement as unlawful.<sup>53</sup>

#### Colorado

Colorado enacted legislation in 2025 that primarily focuses on foreign third-party litigation funders from adversarial nations.<sup>54</sup> The law took effect on August 6, 2025 (90 days after the end of the legislative session) and is modeled after Louisiana’s 2024 Transparency and Limitations on Foreign Third-Party Litigation Funding and Litigation Financing Disclosure Act laws (discussed below).

A foreign third-party litigation funder shall disclose to the attorney general the name, address, and citizenship or country of incorporation or registration of the foreign entity that has a financial stake in the outcome of the civil action (or portfolio that includes the civil action) and provide a copy of the litigation financing agreement to the attorney general.<sup>55</sup> These disclosures must be made upon the filing of a civil action or, if a civil action is filed prior to the execution of the litigation financing agreement, within 35 days after the execution of the agreement. Further, the declarant shall make the disclosure “under penalty of perjury based on actual knowledge of the declarant formed after reasonable inquiry.”<sup>56</sup> The attorney general shall maintain the disclosure “to preserve the confidentiality of the parties and attorneys.”<sup>57</sup> A foreign third-party litigation funder must supplement or correct any incomplete or inaccurate disclosures within 35 days after learning of the incomplete or inaccurate information.

Foreign third-party litigation funders are prohibited from deciding, influencing, or directing attorneys

with respect to the conduct of the civil action or settlement, and cannot be assigned rights to profits other than the right to receive a share of the proceeds from the civil action as outlined in the litigation financing agreement.<sup>58</sup> Foreign third-party litigation funders are also prohibited from sharing proprietary information, or information affecting national security interests obtained as a result of a litigation financing agreement, with anyone who is not a party or an attorney.<sup>59</sup>

Despite the statute's sweeping language setting forth prohibitions and disclosure requirements for "foreign third-party litigation funders," the definitions narrow the scope of the legislation significantly, excluding most foreign third-party litigation funders from the above-referenced provisions. Pursuant to the definitions, a "foreign entity" that is subject to the prohibitions and disclosure requirements is an entity that is either owned or controlled by or based in a "foreign country of concern."<sup>60</sup> The term "foreign entity of concern" is defined to mean a foreign government listed in the referred regulation<sup>61</sup> as an adversary of the United States (i.e., the People's Republic of China, Cuba, Iran, North Korea, Russia, and the Maduro regime in Venezuela).<sup>62</sup> Thus, the language is focused on adversarial nations that may seek to use civil litigation in the United States to further their strategic interests.

In addition to regulating foreign third-party litigation funders, the legislation contains a disclosure provision that is applicable to all civil cases. The legislation states: "The existence of a litigation financing agreement is subject to discovery pursuant to the Colorado Rules of Civil Procedure and Colorado Rules of Evidence in the civil action to which the litigation financing agreement pertains."<sup>63</sup> Rather than require disclosure, however, this provision appeared to simply codify the status quo. Existing court rules often frustrate efforts by opposing parties to obtain litigation funding information through discovery.<sup>64</sup>

A litigation financing agreement that does not comply with the various provisions in the legislation is void and constitutes a deceptive or unfair trade practice that may be enforced by the attorney general.<sup>65</sup> The attorney general is authorized to institute a legal action to enforce compliance, impose fines, prohibit a foreign third-party litigation funder from operating within the state, or impose any other sanction the

attorney general deems appropriate for a violation of the statute.<sup>66</sup>

Lastly, beginning January 2026 and each January thereafter, the Department of Law shall include as part of its presentation during its "SMART Act" hearing the name, citizenship, or country of incorporation or registration of each foreign entity; whether the foreign entity provided funds for a purpose other than to defray litigation expenses or the financial impact of a negative judgment; whether a foreign third-party litigation funder violated the statute and, if so, what the violations were and whether the attorney general took enforcement action against the foreign third-party litigation funder.<sup>67</sup>

### Georgia

The Georgia Courts Access and Consumer Protection Act, enacted in 2025, applies to both commercial third-party litigation funding agreements and consumer lawsuit lending agreements.<sup>68</sup> The Act generally takes effect on January 1, 2026, but an amendment to the Georgia Civil Practice Act facilitating discovery of large-scale third-party litigation funding agreements took effect upon its April 21, 2025 approval by the Governor.

All "litigation financiers," as broadly defined, must be authorized to do business in Georgia and register with the Department of Banking and Finance.<sup>69</sup> No person that is affiliated with a federally-designated foreign adversary in the referred regulation<sup>70</sup> (i.e., the People's Republic of China, Cuba, Iran, North Korea, Russia, and the Maduro regime in Venezuela) or any "foreign person, foreign principal, or sovereign wealth fund thereof" may register as a litigation financier or engage in litigation financing.<sup>71</sup>

Litigation financiers are prohibited from directing or making litigation decisions, including with respect to appointing or changing counsel, choice or use of experts, litigation strategy, and settlement.<sup>72</sup>

A litigation financier may not pay or offer to pay a commission in exchange for referring a consumer or that person's lawyer to a litigation financier.<sup>73</sup>

Importantly, a litigation financier cannot contract for or recover an amount that is greater than the proceeds collectively recovered by the plaintiffs or claimants in

a civil action or legal claim after the payment of any attorney's fees and costs owed in connection with the action or claim.<sup>74</sup>

A litigation financier may not advertise false or misleading information about its services or assign or securitize a litigation financing agreement in whole or in part, unless the litigation financier retains responsibility for collecting payment, administering, and otherwise enforcing the litigation funding contract.<sup>75</sup>

No person that provides goods or services related to a consumer's litigation shall have a financial interest in litigation financing provided to that consumer, and no such person shall receive any commissions or other fees from any litigation financier or its agents or affiliates.<sup>76</sup>

A litigation financier that provides \$25,000 or more in funding relating to a claim is jointly and severally liable for any award of sanctions or costs against the plaintiff or the plaintiff's legal representative in a funded litigation.<sup>77</sup>

The Act also contains detailed disclosures specifically applicable to consumer lawsuit lending agreements.<sup>78</sup>

Georgia's law is unique in subjecting violations to criminal sanctions. A willful violation of the Act constitutes a felony carrying a penalty of one to five years in prison, a fine up to \$10,000, or both.<sup>79</sup> Further, a violation of the Act by a litigation financier renders the litigation financing agreement void and unenforceable by the litigation financier or any successor-in-interest to the litigation financing agreement.<sup>80</sup>

A separate section of the Act amended the Georgia Civil Practice Act's companion to Federal Rule of Civil Procedure 26 (general provisions regarding discovery) to allow a party to "obtain discovery of the existence and terms of any litigation funding agreement" that involves \$25,000 or more in funding.<sup>81</sup>

### Indiana

Indiana enacted legislation to regulate commercial litigation financing in 2024,<sup>82</sup> following the adoption of consumer lawsuit lending disclosure legislation in 2023.<sup>83</sup>

The scope of the 2024 legislation and, in turn, its regulation of commercial TPLF is quite restricted if

courts apply the statute's definition of "commercial litigation financier" exactly as stated. The legislation defines the term as "a person that enters into ... a commercial litigation financing agreement *with a plaintiff* in a civil proceeding" (emphasis added).<sup>84</sup> Virtually all commercial TPLF arrangements are between a funder and a plaintiff's lawyer or law firm, not "with a plaintiff." Consequently, if the legislation is interpreted as limited to TPLF arrangements between funders and plaintiffs themselves, its provisions may not apply to many cases.

A "commercial litigation financier," as defined, is prohibited from entering into a commercial litigation financing agreement that is directly or indirectly financed by a "foreign entity of concern."<sup>85</sup> This prohibition applies to litigation funding that is sourced from an entity that is (1) owned, controlled by, or based in a "foreign country of concern," or (2) controlled by or affiliated with a foreign organization that has been placed on the federal sanctions list (SDN and Blocked Persons List) or is a "foreign terrorist organization."<sup>86</sup> As with other states that have enacted litigation funding regulations, the term "foreign country of concern" is defined as a country that has either been designated in the referred regulation<sup>87</sup> as an adversary of the United States (i.e., the People's Republic of China, Cuba, Iran, North Korea, Russia, and the Maduro regime in Venezuela) or designated as a "threat to critical infrastructure" by the governor.<sup>88</sup>

A party may not disclose or share information with a commercial litigation financier that is subject to a court's sealing or protective order.<sup>89</sup>

A "commercial litigation financier," as defined, is prohibited from influencing, directing or making litigation decisions, including the conduct of the underlying civil proceeding and any settlement or resolution of the civil proceeding. The right to make these decisions "remains solely with the plaintiff and the plaintiff's attorney in the civil proceeding."<sup>90</sup>

In a civil action in which "a plaintiff" enters into a commercial litigation financing agreement, the "contents of the commercial litigation funding agreement" are "subject to discovery under the Indiana Rules of Trial Procedure."<sup>91</sup> As noted above, provisions that are limited to litigation funding agreements entered into by "a plaintiff" will not apply to many cases because

most commercial litigation financing agreements are between funders and lawyers or law firms. Further, the provision simply codified the status quo,<sup>92</sup> and courts generally limit discovery requests on litigation funding “to those relevant to a particular claim or defense.”<sup>93</sup>

Lastly, in a civil action in which “a plaintiff” enters into a commercial litigation financing agreement that is financed by a foreign person, the plaintiff or the plaintiff’s attorneys shall provide each party and any insurer that has a duty to defend a party in the case written notice that the plaintiff has entered into a commercial litigation financing agreement.<sup>94</sup>

### Kansas

In 2025, Kansas amended the Kansas Code of Civil Procedure’s companion to Federal Rule of Civil Procedure 26 (general provisions regarding discovery)<sup>95</sup> to require “the automatic production of commercial litigation funding agreements to the court *in camera*, with limited disclosures made to opposing parties.”<sup>96</sup>

A party shall provide to the court, for *in camera* review, any TPLF agreement within 30 days after commencement of a legal action or 30 days after the execution of a TPLF agreement, whichever is later.<sup>97</sup>

There are also disclosure requirements as to TPLF agreements between funders and parties. A *party* that has entered into a litigation funding agreement must provide all other parties with a sworn statement disclosing: (1) the identity of all contracting parties to the TPLF agreement; (2) whether the agreement grants a third-party funder control or approval rights with respect to litigation or settlement decisions or otherwise has the potential to create conflicts of interest between the funder and the funded party and, if the agreement does grant such control or approval rights, the nature of the terms and conditions relating to those rights; (3) whether the agreement grants a funder the right to receive materials designated as confidential pursuant to a protective or confidentiality agreement or order in the action; (4) the existence of any known relationship between a third-party funder and the adverse party, the adverse party’s counsel, or the court; (5) a description of the nature of the third-party funder’s financial interest, including whether such interest is, in whole or in part, recourse or non-recourse; and (6) whether any foreign person from a “foreign country of concern”<sup>98</sup> is providing

funding, directly or indirectly, for the third-party litigation funding agreement and, if so, the name, address and country of incorporation or registration of the foreign person.<sup>99</sup> The sworn statement must be produced within 30 days after commencement of a legal action or 30 days after the execution of the TPLF agreement, whichever is later.

The disclosure requirement in Kansas is limited to funding obtained by a party to fund the prosecution of a case. There is no requirement for opposing parties to be notified if a plaintiff’s lawyer or law firm has obtained third-party litigation financing to prosecute a case, which is a far more common arrangement.

### Louisiana

In 2024, Louisiana enacted a two-part law to regulate TPLF: the Transparency and Limitations on Foreign Third-Party Litigation Funding Act<sup>100</sup> and the Litigation Financing Disclosure Act.<sup>101</sup>

The Transparency and Limitations on Foreign Third-Party Litigation Funding Act is intended “to protect the national security interests of the United States and to prevent certain foreign entities from gaining access to sensitive trade secrets and other proprietary information through their involvement in litigation funding.”<sup>102</sup>

The Act provides that in any civil action involving a “foreign third-party litigation funder,”<sup>103</sup> the funder must disclose to the attorney general the name, address, and citizenship or country of incorporation or registration of any foreign entity that has a financial stake in the outcome of the civil action (or portfolio that includes the civil action), and provide a copy of the litigation financing agreement to the attorney general.<sup>104</sup> The foreign third-party litigation funder also must disclose to the attorney general the name, address, and citizenship or country of incorporation or registration of any foreign entity that has received or is entitled to receive proprietary information or information affecting national security interests obtained as a result of the funding agreement in the civil action.<sup>105</sup> These disclosures must be made no later than 30 days after execution of any agreement or the date on which the civil action is filed.

The required disclosures shall be made “under penalty of perjury based on actual knowledge of the declarant

formed after reasonable inquiry.”<sup>106</sup> The disclosures must be maintained by the attorney general “to preserve the confidentiality of the parties to the litigation, attorneys, and law firms.”<sup>107</sup> The funder must supplement or correct any disclosures that are incomplete or inaccurate in any material respect within 30 days after learning of the incomplete or inaccurate information.

Foreign third-party litigation funders are prohibited from knowingly entering into agreements that allow a third party to receive or make a payment that is contingent on the outcome of a civil action (or any matter within a portfolio that includes the civil action) if the terms are to be satisfied, in whole or in part, from a foreign entity.<sup>108</sup> In addition, foreign third-party litigation funders are prohibited from directing or making litigation decisions and cannot be assigned rights to or in a civil action other than the right to receive a share of the proceeds pursuant to the litigation financing agreement.<sup>109</sup>

Notably, the definitions restrict the scope of the disclosures and prohibitions by defining a “foreign third-party litigation funder” to cover only those funders that pose the greatest risk to American interests. Pursuant to the definitions, a “foreign entity” subject to the Act is one that is owned, controlled by, or based in a “foreign country of concern, or a subsidiary of such entity.”<sup>110</sup> The term “foreign entity of concern” is defined as a foreign government listed in the referred regulation<sup>111</sup> as an adversary of the United States (i.e., the People’s Republic of China, Cuba, Iran, North Korea, Russia, and the Maduro regime in Venezuela).<sup>112</sup>

A litigation financing agreement that does not comply with the disclosures and prohibitions in the Act is void.<sup>113</sup> Further, a violation of the Act constitutes a deceptive or unfair trade practice that may be enforced by the attorney general. The attorney general is authorized to institute a legal action to enforce compliance, impose fines, prohibit a third-party litigation funder from a foreign country of concern from operating within the state, or impose any other appropriate sanctions for violation of the Act’s requirements.<sup>114</sup>

The attorney general, at least once each year, shall report to the legislature describing foreign involvement in litigation financing agreements in the prior year. The report shall include the name, citizenship,

or country of incorporation or registration of any foreign entity; whether any third-party litigation funder violated the Act, and the attorney general took any enforcement action; and any determinations or analysis of the disclosures received. The report shall not name the parties to the civil action, the counsel of record, or the law firm of record.<sup>115</sup>

The Litigation Financing Disclosure Act, enacted in the same legislation, provides that a “litigation financier” that enters into an agreement “with the party” shall not decide, influence, or direct a funded party’s litigation decisions, including “the conduct of the underlying civil proceeding or any settlement or resolution” thereof.<sup>116</sup> This could be interpreted by a court to mean that the prohibition only applies in the rare case where the third-party litigation funder contracts with “the party” to fund the prosecution of the case, and would not apply in the much more common situation where the funding agreement is between a funder and the party’s lawyer or law firm.

The “existence of a litigation financing agreement” is subject to discovery “in accordance with the Code of Civil Procedure and Code of Evidence.”<sup>117</sup> This provision appears to simply codify the status quo and does not address limitations in the civil rules that generally thwart efforts by parties to obtain TPLF information in discovery.<sup>118</sup>

Disclosure of litigation funding agreements is an area where the Act could be improved. As one commentator has explained, “Disclosure would be useful because [third-party litigation funders] are quasi-participants in the judicial proceedings they fund, making their actions potentially consequential to the public at large.”<sup>119</sup>

### Montana

Montana enacted a Litigation Financing Transparency and Consumer Protection Act in 2023.<sup>120</sup> In 2025, the Act was amended to clarify some provisions and address newer issues with regard to TPLF reforms.<sup>121</sup> The 2025 amendments took effect on May 8, 2025.

The 2023 Act requires litigation financiers to register with the Secretary of State. In addition, the Act provides that a litigation financier may not recover a payment that exceeds 25% of the amount of any judgment or settlement that a plaintiff’s recovers in

a funded civil action. The Act also contains detailed disclosures specifically applicable to consumer lawsuit lending agreements. In addition, the Act provides for the automatic disclosure of litigation financing contracts and states that the existence of a litigation financing contract and all participants in the contract are permissible subjects of discovery in a civil action. Further, litigation financiers are jointly and severally liable for any award or order imposing costs in a funded case. Any violation of the Act renders a litigation financing contract unenforceable.

The 2025 law clarifies that the Act applies to both commercial TPLF agreements (whether in a single legal claim or as part of a portfolio that includes the civil action) and consumer lawsuit lending arrangements,<sup>122</sup> including Montana's requirement that TPLF agreements must be automatically disclosed to other parties, the court, and any known insurer with a preexisting contractual obligation to defend or indemnify a party to the action. The amended Act also clarifies that all funders are jointly and severally liable for any award of sanctions or costs against a funded party or a party's legal representative.<sup>123</sup>

In addition, the amended Act prohibits litigation financiers from making or influencing litigation decisions, including with respect to appointing or changing counsel, choice or use of experts, litigation strategy, and settlement.<sup>124</sup> Further, a party or an attorney or law firm representing a party may not share any information with a litigation financier that is subject to a court's protective or sealing order, and a party may not share with a litigation financier any proprietary information received in the course of a legal claim.<sup>125</sup>

A new Foreign Investment in Litigation Financing Act<sup>126</sup> included in the 2025 legislation prohibits litigation funding by federally-designated foreign adversaries<sup>127</sup> (i.e., the People's Republic of China, Cuba, Iran, North Korea, Russia, and the Maduro regime in Venezuela) and "foreign persons of concern" (i.e., an entity that is controlled by or affiliated with a foreign organization that has been placed on the federal sanctions list (SDN and Blocked Persons List) or is a "foreign terrorist organization").<sup>128</sup> Other foreign persons may engage in litigation financing after disclosing certain information about financing activities and providing a copy of any financing contract to the Secretary of State.<sup>129</sup> A party to a civil action may not share propri-

etary information received in conjunction with, or in pursuit of, a legal claim with a foreign person, foreign adversary, or a foreign person of concern.<sup>130</sup>

### Oklahoma

Oklahoma's Foreign Litigation Funding Prevention Act takes effect on November 1, 2025.<sup>131</sup> The Act amends the Oklahoma Discovery Code's companion to Federal Rule of Civil Procedure 26 (general provisions regarding discovery) to require a party to produce any commercial litigation funding agreement, upon request, and identify any foreign state or agency of a foreign state that is a source of any of the funds.<sup>132</sup> The Act states:

A party shall produce upon request . . . any commercial litigation funding agreement. . . . Production of a commercial litigation funding agreement shall include a certification, by sworn affidavit, by the producing party as to whether any funds encumbered by the terms of the agreement have been or will be sourced from a foreign state or agency or instrumentality of a foreign state. . . . Certification that discloses that a foreign state or agency or instrumentality of a foreign state is such a source shall include the identity of the foreign state, agency, or instrumentality that is the source of the funds.<sup>133</sup>

A party has a duty to supplement or correct the certification within 30 days in the event the certification becomes incomplete or inaccurate in a material aspect.

Curiously, a separate "definitions" section of the Act defines "commercial litigation funding agreement" to *exclude* "an agreement entered into between an attorney or law firm and a commercial litigation funder or any other entity"<sup>134</sup> – an exception that seems to swallow the rule and render the disclosure requirement of questionable effect. The disclosure requirement would apply to the unusual situation where a *party* (as opposed to the party's lawyer or law firm) enters into a commercial TPLF agreement.

### West Virginia

In 2019, the West Virginia Consumer Credit and Protection Act was amended to add an article ("Article 6N") to regulate and impose restrictions on consumer

litigation funding.<sup>135</sup> Among other provisions, the 2019 law required mandatory disclosure of consumer litigation funding agreements.<sup>136</sup> In 2024, West Virginia extended the disclosure requirement to commercial TPLF agreements.<sup>137</sup> The law is modeled after a 2018 Wisconsin law (discussed below) and states:

Except as otherwise stipulated or ordered by the court, a party shall, without awaiting a discovery request, provide to the other parties any agreement under which any litigation financier, other than an attorney permitted to charge a contingent fee representing a party, has a right to receive compensation that is contingent on and sourced from any proceeds of the civil action, by settlement, judgment, or otherwise.<sup>138</sup>

### Wisconsin

Wisconsin was the first state to require disclosure of TPLF agreements.<sup>139</sup> In 2018, the legislature amended Wisconsin's companion to Federal Rule of Civil Procedure 26 (general provisions regarding discovery) to add the following requirement:

Except as otherwise stipulated or ordered by the court, a party shall, without awaiting a discovery request, provide to the other parties any agreement under which any person, other than an attorney permitted to charge a contingent fee representing a party, has a right to receive compensation that is contingent on and sourced from any proceeds of the civil action, by settlement, judgment, or otherwise.<sup>140</sup>

### Conclusion

The high level of activity with respect to state regulation of TPLF shows a growing awareness of the issue by state policymakers and willingness to take steps to regulate TPLF in their states. This trend is encouraging, but the approaches taken in the states vary widely. Some state laws effectively address issues that are core concerns with regard to the use of TPLF in civil cases. The laws in other states, however, fall short of meaningfully regulating TPLF arrangements, leaving room for improvements to be made. Legislators and other policymakers looking for sound models for future state

efforts, or to fill gaps in past enactments, can benefit from this article's analysis of each state's legislation.

### Endnotes

1. Mark Behrens, *Third Party Litigation Funding: A Call For Disclosure and Other Reforms to Address the Stealthy Financial Product That is Transforming the Civil Justice System*, 34 CORNELL J.L. & PUB. POL'Y 1 (2025).
2. See, e.g., Standing Order Regarding Third-Party Litigation Funding Arrangements (D. Del. Apr. 18, 2022); Civ. L.R. 7.1.1 (D.N.J. June 21, 2021); see also Standing Order for All Judges of the North District of California, Contents of Joint Case Management Statement ¶ 17 (N.D. Cal. Nov. 30, 2023). In addition, local rules addressing disclosure of persons or entities with financial interests in a litigation in roughly half the federal appellate courts and approximately one-quarter of all federal district courts are written broadly enough to require disclosure of the identity of litigation funders. *Nimitz Techs. LLC v. CNET Media, Inc.*, 2022 U.S. Dist. LEXIS 215395, 2022 WL 17338396, at \*3 (D. Del. Nov. 30, 2022), *motion denied*, 2022 U.S. Dist. LEXIS 224983, 2022 WL 17669186 (D. Del. Dec. 14, 2022) (citing Advisory Comm. on Civil Rules, Agenda Book, Apr. 10, 2018, at 209-210)). See, e.g., *In re Uber Techs., Inc., Passenger Sexual Assault Litig.*, No. 23-md-03084-CRB (N.D. Cal. Aug. 1, 2025) (holding that documents pertaining to litigation funding were not discoverable under Federal Rule of Civil Procedure 26, but if plaintiffs were aware of any entities with a financial interest in the member cases in the multidistrict litigation, "including sources of litigation funding," plaintiffs "must disclose them under Civil Local Rule 3-15(b)(2).").
3. See, e.g., *In re Depo-Provera (Depot Medroxyprogesterone Acetate) Prods. Liab. Litig.*, 2025 U.S. Dist. LEXIS 127535, 2025 WL 1860996 (N.D. Fla. July 1, 2025) (Pretrial Order No. 25 (Third-Party Litigation Funding Disclosure Requirement)); *In re Zantac (Ranitidine) Prods. Liab. Litig.*, 2020 U.S. Dist. LEXIS 62805, 2020 WL 1669444 (S.D. Fla. Apr. 3, 2020); *In re Nar'l Prescription Opiate Litig.*, 2018 U.S. Dist. LEXIS 84819, 2018 WL 2127807 (N.D. Ohio May 7, 2018); *Gibson v. Nat'l Ass'n of Realtors*, No. 23-cv-00788-SRB (W.D. Mo. Aug. 18, 2025) (Order) ("[T]he Court directs each ap-

plicant for leadership or class counsel to provide the Court and the public with a declaration with written responses to the following questions. Each applicant is under a continuing obligation to supplement these responses.... 4. Do you, your firm, or any co-counsel have any financing that is contingent upon the outcome of this litigation? Please describe your investigation and its results. If yes, the following questions shall be answered: a. Does the litigation funder have any control (direct or indirect, actual or apparent or implied) over the decision to file or the content of any motions or briefs, or any input into the decision to accept a settlement offer? b. Does the financing (1) create any conflict of interest for counsel, (2) undermine counsel's obligation of vigorous advocacy, (3) affect counsel's independent judgment, (4) give to the lender any control over litigation strategy or settlement decisions (as to either the common benefit work done by counsel or work for individual retained clients), or (5) affect party control of settlement? c. Briefly explain the nature of the financing, the amount of the financing, and submit a copy of the documentation to the Court, or if applicable, to the Special Master.") (on file with author).

4. Advisory Comm. on Civil Rules, Agenda Book, Apr. 1, 2025, at 270 ("This subcommittee was created at the Committee's October 2024 meeting, and has embarked on a program designed to educate subcommittee members about the issues involved..... There is ... little question that TPLF has gained prominence. And the amount of such funding seems to be growing rather rapidly."), available at <https://www.uscourts.gov/sites/default/files/2025-03/2025-04-civil-rules-committee-agenda-book-final-updated-3.28.25.pdf>. For proposals from business and civil justice groups regarding TPLF disclosure, see Lawyers for Civil Justice, *Disclose Third-party Litigation Funding* ("LCJ is proposing three procedural rule reforms. Together with the US Chamber of Commerce Institute for Legal Reform, LCJ is urging the Advisory Committee on Civil Rules to amend Rule 16 of the Federal Rules of Civil Procedure to prompt judges to inquire about TPLF during pretrial conferences. LCJ and ILR also advocate for a uniform rule requiring initial disclosure of third-party funding agreements at the outset of all civil cases."), available at <https://www.lfcj.com/advocacy#issues>; Lawyers for Civil Justice & U.S. Chamber of Commerce Institute

for Legal Reform, Rules Suggestion to the Advisory Committee on Civil Rules, "It is Time to Address the Patchwork of Inadequate Practices: How the Lack of FRCP Guidance is Failing Courts and Parties Who Need a Uniform and Credible Procedure for Understanding Third-Party Litigation Funding Agreements," Oct. 2, 2024 ("Courts and parties need a simple, effective, and predictable rule for TPLF disclosure."), available at [https://www.uscourts.gov/sites/default/files/24-cv-v\\_suggestion\\_from\\_lcj\\_and\\_ilr\\_-\\_rule\\_26\\_tplf.pdf](https://www.uscourts.gov/sites/default/files/24-cv-v_suggestion_from_lcj_and_ilr_-_rule_26_tplf.pdf); David H. Levitt with Francis H. Brown III, *Third Party Litigation Funding: Civil Justice and the Need for Transparency*, DRI Ctr. for L. & Pub. Pol'y, Third Party Litigation Funding Working Group, at 32 (2018) ("DRI . . . proposes that appropriate judicial and legislative authorities ought to be evaluating, and setting rules, requiring uniform disclosure of TPLF agreements to all parties in litigation where such transactions exist."), available at <https://www.dri.org/docs/default-source/dri-white-papers-and-reports/third-party-litigation.pdf>.

5. H.R. 1109, Litigation Transparency Act, 119th Cong. (2025); H.R. 3512 / S. 1821, Tackling Predatory Litigation Funding Act, 119th Cong. (2025); H.R. 5488 / S. 2805, Protecting Our Courts from Foreign Manipulation Act, 118th Cong. (2023); Evan Greenberg & John Doyle, *End the Tax Break for Litigation Funders*, WALL ST. J., July 7, 2025.
6. Leslie Stahl, *Litigation Funding: A Multibillion-dollar Industry for Investments in Lawsuits with Little Oversight*, CBS's "60 Minutes," Dec. 18, 2022 (interview with Professor Maya Steinitz), available at <https://www.cbsnews.com/news/litigation-funding-60-minutes-2022-12-18/>.
7. Bloomberg L., Litigation Finance Survey 2024, at 3, available at <https://pro.bloomberglaw.com/insights/litigation/2024-litigation-finance-survey/> (reporting that disclosure of TPLF agreements "rarely or never happens" for majority of funders).
8. John E. Hall, Jr., et al., *The Effect of Discoverability of Third-Party Litigation Funding (Part 2 of 2)*, For the Def. (DRI, Chi., Ill), Apr. 2021, at 28, 29, available at [https://digitaleditions.walsworth.com/publication/?i=704195&article\\_id=4001620&view=articleBrowser](https://digitaleditions.walsworth.com/publication/?i=704195&article_id=4001620&view=articleBrowser); see generally Behrens, *supra* note 1, at 21 n.104 ("Courts may be

- taking a perspective that is too narrow with regard to relevancy determinations. Even when discovery of TPLF may not relate to the claims or defenses in a particular case, such information is relevant for other reasons, such as judicial conflicts and enforcement of lawyers' ethical obligations.”).
9. Westfleet Advisors, a litigation funding advisory firm, estimates that the total assets under management for U.S. commercial litigation funders exceeded \$16 billion in 2024. WESTFLEET ADVISORS, THE WESTFLEET INSIDER: 2024 LITIGATION FINANCE MARKET REPORT 3 (2025), available at <https://www.westfleetadvisors.com/wp-content/uploads/2025/03/WestfleetInsider-2024-Litigation-Finance-Report.pdf>. The global litigation funding investment market is estimated to be nearly \$19 billion and is projected to exceed \$67 billion by 2037. *Global Litigation Funding Investment Market Size, Forecast, and Trend Highlights Over 2025-2037*, RESEARCH NESTER, available at <https://www.researchnester.com/reports/litigation-funding-investment-market/2800>. A prominent litigation funder argues, however, that “commercial litigation funding is a mere rounding error, if even that, compared to major asset classes.” William Weisman, *Market Perspective: What Is the True Size of The Commercial Litigation Funding Industry?*, NAT'L L. REV. (Aug. 13, 2025), available at <https://natlawreview.com/article/market-perspective-what-true-size-commercial-litigation-funding-industry>.
  10. Mont. S.B. 511 (Reg. Sess. 2025) (codified at Mont. Code § 31-4-108), available at <https://legiscan.com/MT/bill/SB511/2025>.
  11. Fed. R. Civ. P. 26(1)(A)(iv).
  12. Mont. S.B. 511 (Reg. Sess. 2025) (codified at Mont. Code § 31-4-108).
  13. W. Va. S.B. 850 (Reg. Sess. 2024) (codified at W. Va. Code Ann. § 46A-6N-6(a)), available at <https://legiscan.com/WV/bill/SB850/2024>; Wis. A.B. 773 (Reg. Sess. 2018) (codified at Wis. Stat. § 804.01(2)(bg)), available at <https://docs.legis.wisconsin.gov/2017/related/acts/235>.
  14. Ga. S.B. 69 (Reg. Sess. 2025) (codified at Ga. Code Ann. § 9-11-26(b)(2.1)(A)), available at <https://legiscan.com/GA/bill/SB69/2025>.
  15. Kan. S.B. 54 (Reg. Sess. 2025) (codified at Kan. Stat. Ann. §§ 60-226(b)(3)(B) & (g)), available at <https://legiscan.com/KS/bill/SB54/2025>.
  16. Okla. H.B. 2619 (Reg. Sess. 2025) (codified at Okla. Stat. § 12-3226(B)(1)(c), Okla. Stat. § 12-3226.2), available at <https://legiscan.com/OK/bill/HB2619/2025>.
  17. La. S.B. 355 (Reg. Sess. 2024) (codified at La. Rev. Stat. § 3580.12), available at <https://legiscan.com/LA/bill/SB355/2024>.
  18. Colo. H.B. 1329 (Reg. Sess. 2025) (codified at Colo. Rev. Stat. § 13-16-126(7)), available at <https://legiscan.com/CO/bill/HB1329/2025>.
  19. Ind. H.B. 1160 (Reg. Sess. 2024) (codified at Ind. Code § 24-12-11-5(a)), available at <https://legiscan.com/IN/bill/HB1160/2024>.
  20. Emily R. Siegel, *Funder Tried to Hijack Kandinsky Art Theft Suits, Collector Says*, BLOOMBERG L., Aug. 8, 2025, available at <https://news.bloomberglaw.com/business-and-practice/funder-tried-to-hijack-kandinsky-art-theft-suits-collector-says>.
  21. *Id.*
  22. Ariz. S.B. 1215 (Reg. Sess. 2025) (to be codified at Ariz. Rev. Stat. Ann. § 12-3452), available at <https://legiscan.com/AZ/bill/SB1215/2025>; Ga. S.B. 69 (Reg. Sess. 2025) (codified at Ga. Code Ann. § 7-10-4(a)(1)); Mont. S.B. 511 (Reg. Sess. 2025) (codified at Mont. Code § 31-4-104(l)).
  23. Colo. H.B. 1329 (Reg. Sess. 2025) (codified at Colo. Rev. Stat. § 13-16-126(6)(b)); La. S.B. 355 (Reg. Sess. 2024) (codified at La. Rev. Stat. § 3580.5).
  24. La. S.B. 355 (Reg. Sess. 2024) (codified at La. Rev. Stat. § 3580.12(A)).
  25. Kan. S.B. 54 (Reg. Sess. 2025) (codified at Kan. Stat. Ann. § 60-226(b)(3)(B)(i)(b)).
  26. Donald J. Kochan, Editorial, *Keep Foreign Cash Out of U.S. Courts*, Wall St. J., Nov. 24, 2022, at A13; MICHAEL E. LEITER ET AL., U.S. CHAMBER OF COM. INST. FOR LEGAL REFORM, A NEW THREAT: THE NATIONAL SECURITY RISK OF THIRD PARTY LITIGATION FUNDING (2022); Letter from

- Marco Rubio and Rick Scott, U.S. Sens., to Hon. Rick Walker, C.J., U.S. Dist. Ct. for the N. Dist. of Fla., at 2 (Nov. 3, 2023) (“The cost of allowing foreign actors, especially foreign adversaries, to take advantage of the American court system is high.”), *available at* <https://perma.cc/VTE7-DM7F>.
27. Kochan, *supra*; see also Michael B. Mukasey, Editorial, *Patent Litigation Is a Matter of National Security*, WALL ST. J., Sept. 11, 2022 (former U.S. Attorney General stating, “By targeting U.S. innovators and companies in critical industries, foreign-funded [lawsuits] drain time and resources that could instead be dedicated to producing the cutting-edge technologies that will keep America safe and prosperous.”).
  28. Emily R. Siegel, *China Firm Funds US Suits Amid Push to Disclose Foreign Ties*, BLOOMBERG L., Nov. 6, 2023 (quoting Joe Matal, former acting director of the U.S. Patent and Trademark Office), *available at* <https://news.bloomberglaw.com/business-and-practice/china-firm-funds-us-lawsuits-amid-push-to-disclose-foreign-ties>.
  29. Emily R. Siegel & John Holland, *Putin's Billionaires Dodge Sanctions by Financing Lawsuits*, BLOOMBERG L., Mar. 28, 2024, *available at* <https://news.bloomberglaw.com/litigation-finance/putins-billionaires-sidestep-sanctions-by-financing-lawsuits>.
  30. Ga. S.B. 69 (Reg. Sess. 2025) (codified at Ga. Code Ann. § 7-10-2(e)).
  31. Ariz. S.B. 1215 (Reg. Sess. 2025) (to be codified at Ariz. Rev. Stat. Ann. § 12-3453(B)); Mont. S.B. 511 (Reg. Sess. 2025) (Laws 2025, ch. 413, § 8, eff. May 5, 2025).
  32. Colo. H.B. 1329 (Reg. Sess. 2025) (codified at Colo. Rev. Stat. § 13-16-126(2)); La. S.B. 355 (Reg. Sess. 2024) (codified at La. Rev. Stat. § 3580.3).
  33. Mont. S.B. 511 (Reg. Sess. 2025) (Laws 2025, ch. 413, § 11, eff. May 5, 2025).
  34. Thibault Denamiel, et al., *Is Third-Party Litigation Financing a National Security Problem?*, CTR. FOR STRATEGIC & INT’L STUD., Feb. 23, 2024, *available at* <https://www.csis.org/analysis/third-party-litigation-financing-national-security-problem>.
  35. Mont. S.B. 511 (Reg. Sess. 2025) (codified at Mont. Code § 31-4-104(3)-(4)).
  36. Colo. H.B. 1329 (Reg. Sess. 2025) (codified at Colo. Rev. Stat. § 13-16-126(6)(d)).
  37. La. S.B. 355 (Reg. Sess. 2024) (codified at La. Rev. Stat. § 3580.3(A)(2)).
  38. Ga. S.B. 69 (Reg. Sess. 2025) (codified at Ga. Code Ann. § 7-10-4(a)(4)).
  39. Mont. S.B. 511 (Reg. Sess. 2025) (codified at Mont. Code § 31-4-104(1)(d)).
  40. Ga. S.B. 69 (Reg. Sess. 2025) (codified at Ga. Code Ann. § 7-10-8); Mont. S.B. 269 (Reg. Sess. 2023) (codified at § 34-1-119(a)); see also Ariz. S.B. 1215 (Reg. Sess. 2025) (to be codified at Ariz. Rev. Stat. Ann. § 12-3454(A)) (“voidable”).
  41. Ariz. S.B. 1215 (Reg. Sess. 2025) (to be codified at Ariz. Rev. Stat. Ann. § 12-3454(B)); Colo. H.B. 1329 (Reg. Sess. 2025) (codified at Colo. Rev. Stat. § 6-1-105(1)(nnnn)) (unfair or deceptive trade practice); La. S.B. 355 (Reg. Sess. 2024) (codified at La. Rev. Stat. § 3580.6).
  42. See, e.g., N.J. A.5566 (Reg. Sess. 2025) (“A litigation funder shall have a fiduciary duty to a party in a civil action if it has provided litigation funding to that civil action.”), *available at* <https://legiscan.com/NJ/bill/A5566/2024>; S.D. S.B. 175 (Reg. Sess. 2025) (establishing fiduciary duty by funder to all class members or intended beneficiaries of class action), *available at* <https://legiscan.com/SD/amendment/SB175/id/228053/South-Dakota-2025-SB175-Senate-Judiciary-Amendment-175B.pdf>.
  43. Ariz. S.B. 1215 (Reg. Sess. 2025) (to be codified at Ariz. Rev. Stat. Ann. §§ 12-3451 to 12-3454), *available at* <https://legiscan.com/AZ/bill/SB1215/2025>.
  44. *Id.* (to be codified at Ariz. Rev. Stat. Ann. § 12-3452(A)).
  45. *Id.* (to be codified at Ariz. Rev. Stat. Ann. § 12-3452(B)(C)).
  46. *Id.* (to be codified at Ariz. Rev. Stat. Ann. § 12-3453(A)).
  47. *Id.* (to be codified at Ariz. Rev. Stat. Ann. § 12-3453(B)).
  48. 15 C.F.R. 791.4.

49. Ariz. S.B. 1215 (Reg. Sess. 2025) (to be codified at Ariz. Rev. Stat. Ann. § 12-3451).
50. *Id.*
51. *Id.* (to be codified at Ariz. Rev. Stat. Ann. § 12-3454(A)).
52. *Id.* (to be codified at Ariz. Rev. Stat. Ann. § 12-3454(B)).
53. *Id.* (to be codified at Ariz. Rev. Stat. Ann. § 12-3454(C)).
54. Colo. H.B. 1329 (Reg. Sess. 2025) (codified at Colo. Rev. Stat. § 13-16-126, Colo. Rev. Stat. § 6-1-105, Colo. Rev. Stat. § 24-31-101), *available at* <https://legiscan.com/CO/bill/HB1329/2025>.
55. *Id.* (codified at Colo. Rev. Stat. § 13-16-126(2)).
56. *Id.* (codified at Colo. Rev. Stat. § 13-16-126(4)).
57. *Id.*
58. *Id.* (codified at Colo. Rev. Stat. § 13-16-126(6)(b)-(c)).
59. *Id.* (codified at Colo. Rev. Stat. § 13-16-126(6)(d)).
60. *Id.* (codified at Colo. Rev. Stat. § 13-16-126(1)).
61. 15 C.F.R. 791.4.
62. Colo. H.B. 1329 (Reg. Sess. 2025) (codified at Colo. Rev. Stat. § 13-16-126(1)).
63. Colo. H.B. 1329 (Reg. Sess. 2025) (codified at Colo. Rev. Stat. § 13-16-126(7)).
64. Colorado Rule of Civil Procedure 26(b)(1) limits the scope of discovery to information that “is relevant to the claim or defense of any party, and proportional to the needs of the case...” Colo. R. Civ. P. 26(b)(1).
65. Colo. H.B. 1329 (Reg. Sess. 2025) (codified at Colo. Rev. Stat. § 13-16-126(8)-(9)).
66. *Id.* (codified at Colo. Rev. Stat. § 13-16-126(10)).
67. *Id.* (codified at Colo. Rev. Stat. § 13-16-126(11)).
68. Ga. S.B. 69 (Reg. Sess. 2025) (codified at Ga. Code Ann. §§ 7-10-1 to -11 and Ga. Code Ann. § 9-11-26(b)(2.1)(A)), *available at* <https://legiscan.com/GA/bill/SB69/2025>.
69. *Id.* (codified at Ga. Code Ann. § 7-10-2(a)-(b)).
70. 15 C.F.R. 7.4 (now 15 C.F.R. 791.4).
71. Ga. S.B. 69 (Reg. Sess. 2025) (codified at Ga. Code Ann. § 7-10-2(e)).
72. *Id.* (codified at Ga. Code Ann. § 7-10-4(a)(1)).
73. *Id.* (codified at Ga. Code Ann. § 7-10-4(a)(2)).
74. *Id.* (codified at Ga. Code Ann. § 7-10-4(a)(4)).
75. *Id.* (codified at Ga. Code Ann. § 7-10-4(a)(5), (10)).
76. *Id.* (codified at Ga. Code Ann. § 7-10-4(b)).
77. *Id.* (codified at Ga. Code Ann. § 7-10-5).
78. *Id.* (codified at Ga. Code Ann. § 7-10-6).
79. *Id.* (codified at Ga. Code Ann. § 7-10-9).
80. *Id.* (codified at Ga. Code Ann. § 7-10-8).
81. *Id.* (codified at Ga. Code Ann. § 9-11-26(b)(2.1)(A)).
82. Ind. H.B. 1160 (Reg. Sess. 2024) (codified at Ind. Code § 24-12-3-1, Ind. Code § 24-12-11), *available at* <https://legiscan.com/IN/bill/HB1160/2024>.
83. The 2023 legislation requires claimants or their attorneys to provide written notice to other parties and insurers if the claimant has entered into a consumer lawsuit lending arrangement (called a civil proceeding advanced payment (CPAP) agreement in Indiana) with a CPAP provider. It also provides that the existence and content of consumer CPAP agreements are discoverable under the Indiana Rules of Trial Procedure. Ind. H.B. 1124 (Reg. Sess. 2023) (codified at Ind. Code § 24-12-4-2), *available at* <https://legiscan.com/IN/text/HB1124/id/2763105>. The 2023 law amended an older law regulating consumer lawsuit lending arrangements. 2016 Ind. Legis. Serv. P.L. 153-2016 (H.E.A. 1127) (WEST); 2017 Ind. Legis. Serv. P.L. 85-2017 (H.E.A. 1181) (WEST).
84. Ind. H.B. 1160 (Reg. Sess. 2024) (codified at Ind. Code § 24-12-11-1(1)).
85. *Id.* (codified at Ind. Code § 24-12-11-2).
86. *Id.* (codified at Ind. Code § 24-12-11-1).

87. 15 C.F.R. 7.4 (now 15 C.F.R. 791.4).
88. Ind. H.B. 1160 (Reg. Sess. 2024) (codified at Ind. Code § 24-12-11-1).
89. *Id.* (codified at Ind. Code § 24-12-11-3).
90. *Id.* (codified at Ind. Code § 24-12-11-4).
91. *Id.* (codified at Ind. Code § 24-12-11-5(a)).
92. Indiana Rule of Trial Procedure 26(B)(1) limits the scope of discovery to “any matter, not privileged, which is relevant to the subject-matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or the claim or defense of any other party....” Ind. R. Trial P. 26(B)(1).
93. Erica B. Zolner, et al., *Beneath the Surface: A Deeper Dive Into Third-Party Litigation Funding*, Vol. 40 No. 8, WASH. LEGAL FOUND. (Aug. 4, 2025), at 2, available at <https://www.wlf.org/2025/08/04/publishing/beneath-the-surface-a-deeper-dive-into-third-party-litigation-funding/>.
94. Ind. H.B. 1160 (Reg. Sess. 2024) (codified at Ind. Code § 24-12-11-5(b)).
95. Kan. S.B. 54 (Reg. Sess. 2025) (codified at Kan. Stat. Ann. §§ 60-226(b)(3)(B) & (g)), available at <https://legiscan.com/KS/bill/SB54/2025>.
96. Dai Wai Chin Feman, *Breaking Down the First Legislative Compromise on Commercial Litigation Funding*, NAT'L L. REV. (May 5, 2025), available at <https://natlawreview.com/article/breaking-down-first-legislative-compromise-commercial-litigation-funding>.
97. Kan. S.B. 54 (Reg. Sess. 2025) (codified at Kan. Stat. Ann. § 60-226(b)(3)(B)(i)).
98. “Foreign country of concern” is defined as a country that has been designated as a foreign adversary by the United States Secretary of Commerce and any foreign terrorist organization, as of July 1, 2025. *Id.* (codified at Kan. Stat. Ann. § 60-226(g)).
99. *Id.* (codified at Kan. Stat. Ann. § 60-226(b)(3)(B)(ii)).
100. La. S.B. 355 (Reg. Sess. 2024) (codified at La. Rev. Stat. § 3580.1 to § 3580.6), available at <https://legiscan.com/LA/bill/SB355/2024>.
101. *Id.* (codified at La. Rev. Stat. § 3580.10 to § 3580.12).
102. Nicholas W. D'Aquila, *Navigating Transparency: Louisiana's New Law Impacting Litigation Finance*, 72 LA. B.J. 330, 331 (Feb.-Mar. 2025).
103. La. S.B. 355 (Reg. Sess. 2024) (codified at La. Rev. Stat. § 3580.2).
104. *Id.* (codified at La. Rev. Stat. § 3580.3(A)).
105. *Id.*
106. *Id.* (codified at La. Rev. Stat. §§ 3580.4(A)).
107. *Id.*
108. *Id.* (codified at La. Rev. Stat. §§ 3580.5).
109. *Id.*
110. *Id.* (codified at La. Rev. Stat. §§ 3580.2).
111. 15 C.F.R. 7.4 (now 15 C.F.R. 791.4).
112. La. S.B. 355 (Reg. Sess. 2024) (codified at La. Rev. Stat. § 3580.2).
113. *Id.* (codified at La. Rev. Stat. §§ 3580.6).
114. *Id.*
115. *Id.* (codified at La. Rev. Stat. §§ 3580.6).
116. *Id.* (codified at La. Rev. Stat. § 3580.12(A)).
117. *Id.* (codified at La. Rev. Stat. §§ 3580.12(B)).
118. Louisiana Code of Civil Procedure Article 1422 limits the scope of discovery to “any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of any other party the claim or defense of any party....” La. Code Civ. P. art. 1422.
119. Patrick Calhoun, Jr., Comment, *Judicial Jackpots: Investing in Lawsuits and Regulating Litigation Finance*, 85 LA. L. REV. 699, 704 (2025).
120. Mont. S.B. 269 (Reg. Sess. 2023), available at <https://legiscan.com/MT/bill/SB269/2023>.

121. Mont. S.B. 511 (Reg. Sess. 2025), *available at* <https://legiscan.com/MT/bill/SB511/2025>.
122. *Id.* (codified at Mont. Code § 31-4-102).
123. *Id.* (codified at Mont. Code § 31-4-120).
124. *Id.* (codified at Mont. Code § 31-4-104(l)).
125. *Id.* (codified at Mont. Code § 31-4-104(3)-(4)).
126. Mont. S.B. 511 (Reg. Sess. 2025) (Laws 2025, ch. 413, §§ 6-11, eff. May 5, 2025).
127. 15 C.F.R. 7.4 (now 15 C.F.R. 791.4).
128. Mont. S.B. 511 (Reg. Sess. 2025) (Laws 2025, ch. 413, § 8, eff. May 5, 2025).
129. Mont. S.B. 511 (Reg. Sess. 2025) (Laws 2025, ch. 413, § 11, eff. May 5, 2025).
130. Mont. S.B. 511 (Reg. Sess. 2025) (Laws 2025, ch. 413, § 9, eff. May 5, 2025).
131. Okla. H.B. 2619 (Reg. Sess. 2025) (codified at Okla. Stat. § 12-3226(B)(1)(c), Okla. Stat. § 12-3226.2), *available at* <https://legiscan.com/OK/bill/HB2619/2025>.
132. *Id.* (codified at Okla. Stat. § 12-3226(B)(1)(c)).
133. *Id.*
134. *Id.* (codified at Okla. Stat. § 12-3226.2(2)(b)).
135. W. Va. S.B. 360 (Reg. Sess. 2019) (codified at W. Va. Code Ann. § 46A-6N-1 to § 46A-6N-9), *available at* [https://www.wvlegislature.gov/Bill\\_Status/bills\\_text.cfm?billdoc=SB360%20SUB1%20ENR.htm&yr=2019&sesstype=RS&i=360](https://www.wvlegislature.gov/Bill_Status/bills_text.cfm?billdoc=SB360%20SUB1%20ENR.htm&yr=2019&sesstype=RS&i=360).
136. *Id.* (codified at W. Va. Code Ann. § 46A-6N-6(a)).
137. W. Va. S.B. 850 (Reg. Sess. 2024) (codified at W. Va. Code Ann. § 46A-6N-6(b)) (“For purposes of this section only, the terms ‘litigation financing’ and ‘litigation financier’ also include financing provided to an attorney or law firm where the right to receive repayment is contingent in any respect on the outcome of the consumer’s legal claim.”), *available at* <https://legiscan.com/WV/bill/SB850/2024>.
138. *Id.* (codified at W. Va. Code Ann. § 46A-6N-6(a)).
139. Wis. A.B. 773 (Reg. Sess. 2018) (codified at Wis. Stat. § 804.01(2)(bg)), *available at* <https://docs.legis.wisconsin.gov/2017/related/acts/235>.
140. *Id.* ■

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