

SENATE BILL NO. 342

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR TRENT.

1269S.01H

KRISTINA MARTIN, Secretary

AN ACT

To amend chapter 436, RSMo, by adding thereto twenty new sections relating to consumer legal funding, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 436, RSMo, is amended by adding thereto
2 twenty new sections, to be known as sections 436.550, 436.552,
3 436.554, 436.556, 436.558, 436.560, 436.562, 436.564, 436.566,
4 436.568, 436.570, 436.571, 436.572, 436.573, 436.574, 436.575,
5 436.577, 436.578, 436.579, and 436.580, to read as follows:

**436.550. Sections 436.550 to 436.570 shall be known
2 and may be cited as the "Consumer Legal Funding Act".**

**436.552. As used in sections 436.550 to 436.570, the
2 following terms mean:**

3 (1) "Advertise", publishing or disseminating any
4 written, electronic, or printed communication or any
5 communication by means of recorded telephone messages or
6 transmitted on radio, television, the internet, or similar
7 communications media, including film strips, motion
8 pictures, and videos, published, disseminated, circulated,
9 or placed before the public, directly or indirectly, for the
10 purpose of inducing a consumer to enter into a consumer
11 legal funding contract;

12 (2) "Charges", the amount of moneys to be paid to the
13 consumer legal funding company by or on behalf of the
14 consumer above the funded amount provided by or on behalf of

15 the company to a consumer under sections 436.550 to
16 436.570. Charges include all administrative, origination,
17 underwriting, or other fees, no matter how denominated;

18 (3) "Consumer", a natural person who has a legal claim
19 and resides or is domiciled in Missouri;

20 (4) "Consumer legal funding company" or "company", a
21 person or entity that enters into a consumer legal funding
22 contract with a consumer. The term shall not include:

23 (a) An immediate family member of the consumer;

24 (b) A bank, lender, financing entity, or other special
25 purpose entity:

26 a. That provides financing to a consumer legal funding
27 company; or

28 b. To which a consumer legal funding company grants a
29 security interest or transfers any rights or interest in a
30 consumer legal funding; or

31 (c) An attorney or accountant who provides services to
32 a consumer;

33 (5) "Consumer legal funding contract", a nonrecourse
34 contractual transaction in which a consumer legal funding
35 company purchases and a consumer assigns to the company a
36 contingent right to receive an amount of the potential
37 proceeds of a settlement, judgment, award, or verdict
38 obtained in the consumer's legal claim;

39 (6) "Director", the director of the division of
40 finance within the department of commerce and insurance;

41 (7) "Division", the division of finance within the
42 department of commerce and insurance;

43 (8) "Funded amount", the amount of moneys provided to
44 or on behalf of the consumer in the consumer legal funding
45 contract. "Funded amount" shall not include charges;

46 (9) "Funding date", the date on which the funded
47 amount is transferred to the consumer by the consumer legal
48 funding company either by personal delivery, via wire,
49 automated clearing house transfer, or other electronic
50 means, or by insured, certified, or registered United States
51 mail;

52 (10) "Immediate family member", a parent; sibling;
53 child by blood, adoption, or marriage; spouse; grandparent;
54 or grandchild;

55 (11) "Legal claim", a bona fide civil claim or cause
56 of action, any alternative dispute resolution proceeding, or
57 any administrative proceeding before any agency or
58 instrumentality of this state;

59 (12) "Medical provider", any person or business
60 providing medical services of any kind to a consumer
61 including, but not limited to, physicians, nurse
62 practitioners, hospitals, physical therapists,
63 chiropractors, or radiologists as well as any of their
64 employees or contractors or any practice groups,
65 partnerships, or incorporations of the same;

66 (13) "Resolution date", the date the amount funded to
67 the consumer, plus the agreed-upon charges, is delivered to
68 the consumer legal funding company.

436.554. 1. All consumer legal funding contracts
2 shall meet the following requirements:

3 (1) The contract shall be completely filled in when
4 presented to the consumer for signature;

5 (2) The contract shall contain, in bold and boxed
6 type, a right of rescission allowing the consumer to cancel
7 the contract without penalty or further obligation if,
8 within five business days after the funding date, the
9 consumer either:

10 (a) Returns the full amount of the disbursed funds to
11 the consumer legal funding company by delivering the
12 company's uncashed check to the company's office in person;
13 or

14 (b) Mails a notice of cancellation by insured,
15 certified, or registered United States mail to the address
16 specified in the contract and includes a return of the full
17 amount of disbursed funds in such mailing in the form of the
18 company's uncashed check or a registered or certified check
19 or money order;

20 (3) The contract shall contain the initials of the
21 consumer on each page; and

22 (4) The contract shall require the consumer to give
23 nonrevocable written direction to the consumer's attorney
24 requiring the attorney to notify the consumer legal funding
25 company when the legal claim has been resolved. Once the
26 consumer legal funding company confirms in writing the
27 amount due under the contract, the consumer's attorney shall
28 pay, from the proceeds of the resolution of the legal claim,
29 the consumer legal funding company the amount due within ten
30 business days.

31 2. The consumer legal funding company shall provide
32 the consumer's attorney with a written notification of the
33 consumer legal funding contract provided to the consumer
34 within three business days of the funding date by way of
35 postal mail, courier service, facsimile, or other means of
36 proof of delivery method.

37 3. A consumer legal funding contract shall be entered
38 into only if the contract involves an existing legal claim
39 in which the consumer is represented by an attorney.

436.556. No consumer legal funding company shall:

2 (1) Pay or offer to pay commissions, referral fees, or
3 other forms of consideration to any attorney, law firm,
4 medical provider, chiropractor, or physical therapist or any
5 of their employees for referring a consumer to the company;

6 (2) Accept any commissions, referral fees, rebates, or
7 other forms of consideration from an attorney, law firm,
8 medical provider, chiropractor, or physical therapist or any
9 of their employees;

10 (3) Intentionally advertise materially false or
11 misleading information regarding its products or services;

12 (4) Refer, in furtherance of an initial legal funding,
13 a customer or potential customer to a specific attorney, law
14 firm, medical provider, chiropractor, or physical therapist
15 or any of their employees. However, the company may refer
16 the customer to a local or state bar association referral
17 service if a customer needs legal representation;

18 (5) Fail to promptly supply a copy of the executed
19 contract to the consumer's attorney;

20 (6) Knowingly provide funding to a consumer who has
21 previously assigned or sold a portion of the right to
22 proceeds from the consumer's legal claim unless the consumer
23 legal funding company pays or purchases the entire
24 unsatisfied funded amount and contracted charges from the
25 prior consumer legal funding company or the two companies
26 agree to a lesser amount in writing. However, multiple
27 companies may agree to contemporaneously provide funding to
28 a consumer, provided that the consumer and the consumer's
29 attorney consent to the arrangement in writing;

30 (7) Receive any right to or make any decisions with
31 respect to the conduct of the underlying legal claim or any
32 settlement or resolution thereof. The right to make such

33 decisions shall remain solely with the consumer and the
34 attorney in the legal claim; or

35 (8) Knowingly pay or offer to pay for court costs,
36 filing fees, or attorney's fees either during or after the
37 resolution of the legal claim by using funds from the
38 consumer legal funding contract. The consumer legal funding
39 contract shall include a provision advising the consumer
40 that the funding shall not be used for such costs or fees.

436.558. 1. The contracted amount to be paid to the
2 consumer legal funding company shall be set as a
3 predetermined amount based upon intervals of time from the
4 funding date to the resolution date and shall not be
5 determined as a percentage of the recovery from the legal
6 claim.

7 2. No consumer legal funding contract shall be valid
8 if its terms exceed a period of forty-eight months. No
9 consumer legal funding contract shall be automatically
10 renewed.

436.560. All consumer legal funding contracts shall
2 contain the disclosures specified in this section, which
3 shall constitute material terms of the contract. Unless
4 otherwise specified, the disclosures shall be typed in at
5 least twelve-point bold-type font and be placed clearly and
6 conspicuously within the contract, as follows:

7 (1) On the front page under appropriate headings,
8 language specifying:

9 (a) The funded amount to be paid to the consumer by
10 the consumer legal funding company;

11 (b) An itemization of one-time charges;

12 (c) The total amount to be assigned by the consumer to
13 the company, including the funded amount and all charges; and

14 (d) A payment schedule to include the funded amount
15 and charges, listing all dates and the amount due at the end
16 of each six-month period from the funding date until the
17 date the maximum amount due to the company by the consumer
18 to satisfy the amount due pursuant to the contract;

19 (2) Within the body of the contract, in accordance
20 with the provisions under subdivision (2) of subsection 1 of
21 section 436.554: "Consumer's Right to Cancellation: You may
22 cancel this contract without penalty or further obligation
23 within five business days after the funding date if you
24 either:

25 (a) Return the full amount of the disbursed funds to
26 the consumer legal funding company by delivering the
27 company's uncashed check to the company's office in person;
28 or

29 (b) Mail a notice of cancellation by insured,
30 certified, or registered United States mail to the company
31 at the address specified in the contract and include a
32 return of the full amount of disbursed funds in such mailing
33 in the form of the company's uncashed check or a registered
34 or certified check or money order;

35 (3) Within the body of the contract, language
36 specifying that the consumer legal funding company shall
37 have no role in deciding whether, when, or for how much the
38 legal claim is settled and that the consumer or the
39 consumer's attorney shall notify the company of whether the
40 outcome of the legal claim will be by settlement or by
41 adjudication prior to the resolution date. The company may
42 seek updated information about the status of the legal claim
43 but in no event shall the company interfere with the
44 independent professional judgment of the attorney in the
45 handling of the legal claim or any settlement thereof;

46 (4) Within the body of the contract, in all capital
47 letters and in at least twelve-point bold-type font
48 contained within a box: "THE FUNDED AMOUNT AND AGREED-UPON
49 CHARGES SHALL BE PAID ONLY FROM THE PROCEEDS OF YOUR LEGAL
50 CLAIM AND SHALL BE PAID ONLY TO THE EXTENT THAT THERE ARE
51 AVAILABLE PROCEEDS FROM YOUR LEGAL CLAIM. IF THERE IS NO
52 RECOVERY OF ANY DAMAGES FROM YOUR LEGAL CLAIM OR IF THERE IS
53 NOT ENOUGH MONEY TO PAY BACK THE CONSUMER LEGAL FUNDING
54 COMPANY IN FULL, YOU WILL NOT BE OBLIGATED TO PAY THE
55 CONSUMER LEGAL FUNDING COMPANY ANYTHING IN EXCESS OF YOUR
56 RECOVERY UNLESS YOU HAVE VIOLATED THIS CONTRACT. YOU WILL
57 NOT OWE (INSERT NAME OF THE CONSUMER LEGAL FUNDING COMPANY)
58 ANYTHING IF THERE ARE NO PROCEEDS FROM YOUR LEGAL CLAIM
59 UNLESS YOU OR YOUR ATTORNEY HAVE VIOLATED ANY MATERIAL TERM
60 OF THIS CONTRACT OR UNLESS YOU HAVE COMMITTED FRAUD AGAINST
61 THE CONSUMER LEGAL FUNDING COMPANY."; and

62 (5) Located immediately above the place on the
63 contract where the consumer's signature is required, in
64 twelve-point font: "Do not sign this contract before you
65 read it completely or if it contains any blank spaces. You
66 are entitled to a completely filled-in copy of the
67 contract. Before you sign this contract, you should obtain
68 the advice of an attorney. Depending on the circumstances,
69 you may want to consult a tax, public or private benefits
70 planning, or financial professional. You acknowledge that
71 your attorney in the legal claim has provided no tax, public
72 or private benefit planning, or financial advice regarding
73 this transaction."

436.562. 1. Nothing in sections 436.550 to 436.570
2 shall be construed to restrict the exercise of powers or the
3 performance of the duties of the state attorney general that
4 he or she is authorized to exercise or perform by law.

5 2. If a court of competent jurisdiction determines
6 that a consumer legal funding company has intentionally
7 violated the provisions of sections 436.550 to 436.570 in a
8 consumer legal funding contract, the consumer legal funding
9 contract shall be voided.

 436.564. 1. The contingent right to receive an amount
2 of the potential proceeds of a legal claim is assignable.

3 2. Nothing contained in sections 436.550 to 436.570
4 shall be construed to cause any consumer legal funding
5 contract conforming to sections 436.550 to 436.570 to be
6 deemed a loan or to be subject to any of the provisions
7 governing loans. A consumer legal funding contract that
8 complies with sections 436.550 to 436.570 is not subject to
9 any other statutory or regulatory provisions governing loans
10 or investment contracts. To the extent that sections
11 436.550 to 436.570 conflict with any other law, such
12 sections shall supersede the other law for the purposes of
13 regulating consumer legal funding in this state.

14 3. Only attorney's liens related to the legal claim,
15 Medicare, or other statutory liens related to the legal
16 claim shall take priority over claims to proceeds from the
17 consumer legal funding company. All other liens and claims
18 shall take priority by normal operation of law.

19 4. No consumer legal funding company shall report a
20 consumer to a credit reporting agency if insufficient funds
21 remain from the net proceeds to repay the company.

 436.566. An attorney or law firm retained by the
2 consumer in the legal claim shall not have a financial
3 interest in the consumer legal funding company offering
4 consumer legal funding to that consumer. Additionally, any
5 practicing attorney who has referred the consumer to his or
6 her retained attorney shall not have a financial interest in

7 the consumer legal funding company offering consumer legal
8 funding to that consumer.

436.568. No communication between the consumer's
2 attorney in the legal claim and the consumer legal funding
3 company as it pertains to the consumer legal funding
4 contract shall limit, waive, or abrogate the scope or nature
5 of any statutory or common-law privilege, including the work-
6 product doctrine and attorney-client privilege.

436.570. 1. A consumer legal funding company shall
2 not engage in the business of consumer legal funding in this
3 state, unless it has first obtained a license from the
4 division of finance.

2. A consumer legal funding company's initial or
6 renewal license application shall be in writing, made under
7 oath, and on a form provided by the director.

3. Every consumer legal funding company, at the time
9 of filing a license application, shall pay the sum of five
10 hundred dollars for a period ending the thirtieth day of
11 June next following the date of payment; and thereafter a
12 like fee shall be paid on or before June thirtieth of each
13 year and shall be credited to the division of finance fund.

4. A consumer legal funding license shall not be
15 issued unless the division of finance, upon investigation,
16 finds that the character and fitness of the applicant
17 company, and of the officers and directors thereof, are such
18 as to warrant belief that the business shall operate
19 honestly and fairly within the purposes of sections 436.550
20 to 436.570.

5. Every applicant shall also, at the time of filing
22 such application, file a bond satisfactory to the division
23 of finance in an amount not to exceed fifty thousand
24 dollars. The bond shall provide that the applicant shall

25 faithfully conform to and abide by the provisions of
26 sections 436.550 to 436.570, to all rules lawfully made by
27 the director under sections 436.550 to 436.570, and to any
28 such person or persons any and all amounts of moneys that
29 may become due or owing to the state or to such person or
30 persons from the applicant under and by virtue of sections
31 436.550 to 436.570, which shall cover any actions that
32 occurred while the bond was in place for the applicable
33 period of limitations under statute and so long as the bond
34 is not exhausted by valid claims.

35 6. When an action is commenced on a licensee's bond,
36 the director may require the filling of a new bond.
37 Immediately upon any recovery on the bond, the licensee
38 shall file a new bond.

39 7. In order to ensure the effective supervision and
40 enforcement of sections 436.550 to 436.570, the director
41 may, after a contested hearing under chapter 536:

42 (1) Deny, suspend, revoke, condition, or decline to
43 renew a license for a violation of sections 436.550 to
44 436.570, rules issued under sections 436.550 to 436.570, or
45 order or directive entered under sections 436.550 to 436.570;

46 (2) Deny, suspend, revoke, condition, or decline to
47 renew a license if an applicant or licensee fails at any
48 time meet the requirements of sections 436.550 to 436.570,
49 or withholds information or makes a material misstatement in
50 an application for a license or renewal of a license;

51 (3) Order restitution against persons subject to
52 sections 436.550 to 436.570 for violations of sections
53 436.550 to 436.570; and

54 (4) Order or direct such other affirmative action as
55 the director deems necessary.

56 8. Any letter issued by the director and declaring
57 grounds for denying or declining to grant or renew a license
58 may be appealed to the circuit court of Cole County. All
59 other matters presenting a contested case involving a
60 licensee may be heard by the director under chapter 536.

61 9. Notwithstanding the prior approval requirement of
62 subsection 1 of this section, a consumer legal funding
63 company that has applied with the division of finance
64 between the effective date of sections 436.550 to 436.570
65 and six months thereafter may engage in consumer legal
66 funding while the license application of the company or an
67 affiliate of the company is awaiting approval by the
68 division of finance. All funding contracts in effect prior
69 to the effective date of sections 436.550 to 436.570 are not
70 subject to the terms of sections 436.550 to 436.570.

71 10. Whenever it shall appear to the director that any
72 consumer legal funding company is failing, refusing or
73 neglecting to make a good faith effort to comply with the
74 provisions of sections 436.550 to 436.570, or any laws or
75 rules relating to consumer legal funding, the director may
76 issue an order to cease and desist which order may be
77 enforceable by a civil penalty of not more than one thousand
78 dollars per day for each day that the neglect, failure, or
79 refusal shall continue. The penalty shall be assessed and
80 collected by the director. In determining the amount of the
81 penalty, the director shall take into account the
82 appropriateness of the penalty of previous violations, and
83 such other matters as justice may require.

84 11. In the event any consumer legal funding company
85 fails, refuses, or neglects to comply with the provisions of
86 sections 436.550 to 436.570, or of any laws or rules of the
87 state of Missouri relating to consumer legal funding, its

88 license may be suspended or revoked by order of the director
89 after a hearing before said director on any order to show
90 cause why such order of suspension or revocation should not
91 be entered specifying the grounds therefor which shall be
92 served on the particular consumer legal funding company at
93 least ten days prior to the hearing. Any order made and
94 entered by the director may be appealed to the circuit court
95 of Cole County.

96 12. The division shall conduct an examination of each
97 consumer funding company at least once every twenty-four
98 months and such other times as the director may determine.

99 (1) In connection with any such investigation or
100 examination, the director and his or her representatives
101 shall have free and immediate access to the place or places
102 of business and the books and records, and shall have the
103 authority to place under oath all persons whose testimony
104 may be required relative to the affairs and business of the
105 consumer legal funding company.

106 (2) The director may also make such special
107 investigations or examination as the director deems
108 necessary to determine whether any consumer legal funding
109 company has violated any of the provisions of sections
110 436.550 to 436.570 or rules promulgated thereunder; and may
111 assess the reasonable costs of any investigation or
112 examination incurred by the division to the company.

113 13. The division of finance shall have the authority
114 to promulgate rules to carry out the provisions of sections
115 436.550 to 436.570. Any rule or portion of a rule, as that
116 term is defined in section 536.010, that is created under
117 the authority delegated in this section shall become
118 effective only if it complies with and is subject to all of
119 the provisions of chapter 536 and, if applicable, section

120 536.028. This section and chapter 536 are nonseverable, and
121 if any of the powers vested with the general assembly
122 pursuant to chapter 536 to review, to delay the effective
123 date, or to disapprove and annul a rule are subsequently
124 held unconstitutional, then the grant of rulemaking
125 authority and any rule proposed or adopted after August 28,
126 2023, shall be invalid and void.

436.571. Sections 436.571 to 436.580 shall be known
2 and may be cited as the "Consumer Litigation Financing
3 Act". As used in sections 436.571 to 436.580, the following
4 terms mean:

5 (1) "Consumer", any natural person who resides, is
6 present, or is domiciled in this state or who is or may
7 become a plaintiff or complainant in a lawsuit or other
8 legal dispute in this state;

9 (2) "Legal claim", a bona fide civil claim or cause of
10 action, any alternative dispute resolution proceeding, or
11 any administrative proceeding before any agency or
12 instrumentality of this state;

13 (3) "Legal representative", an attorney, group of
14 attorneys, law firm, or other party who may represent a
15 person or persons in a legal dispute in this state;

16 (4) "Litigation activities", any legal work and advice
17 directly related to the prosecution of a legal claim
18 including filings, legal document preparation and drafting,
19 appeals, creation of a litigation strategy, drafting
20 testimony, and related litigation. Funds provided to a
21 consumer for his or her personal needs and use are not
22 litigation activities;

23 (5) "Litigation financier", a person, group of persons,
24 or legal entity engaged in the business of litigation

25 financing or any other mechanism created with the intent of
26 so doing;

27 (6) "Litigation financing", the funding of litigation
28 activities by entities other than the parties themselves,
29 their counsel, or other entities with a preexisting
30 contractual relationship with one of the parties, such as an
31 indemnitor or a liability insurer;

32 (7) "Litigation financing transaction", a nonrecourse
33 transaction in which financing is provided to a consumer in
34 return for a consumer assigning to the litigation financier a
35 contingent right to receive an amount of the potential
36 proceeds of the consumer's judgment, award, settlement, or
37 verdict obtained with respect to the consumer's legal claim
38 or agreeing to pay the litigation financier interest or other
39 fees for the financing provided. "Litigation financing"
40 shall not include legal representation services provided to
41 a consumer on a contingency fee basis, or legal costs
42 advanced by a legal representative, if such services or
43 costs are provided to or on behalf of a consumer by an
44 attorney representing the consumer in the dispute and in
45 accordance with rule 4 of the rules of the supreme court;

46 (8) "Medical provider", any person or business
47 providing medical services of any kind to a consumer
48 including, but not limited to, physicians, nurse
49 practitioners, hospitals, physical therapists,
50 chiropractors, or radiologists as well as any of their
51 employees or contractors or any practice groups,
52 partnerships, or incorporations of the same.

436.572. 1. A litigation financier shall not engage in
2 the business of litigation financing in this state, unless
3 it has first obtained a license from the division of finance.

4 2. A litigation financier's initial or renewal license
5 application shall be in writing, made under oath, and on a
6 form provided by the director.

7 3. Every litigation financier at the time of filing a
8 license application, shall pay the sum of five hundred fifty
9 dollars for the period ending the thirtieth day of June next
10 following the date of payment; and thereafter a like fee
11 shall be paid on or before June thirtieth of each year and
12 shall be credited to the division of finance fund.

13 4. A litigation financier license shall not be issued
14 unless the division of finance, upon investigation, finds
15 that the character and fitness of the applicant company, and
16 of the officers and directors thereof, are such as to
17 warrant belief that the business shall operate honestly and
18 fairly within the purposes of sections 436.571 to 436.580.

19 5. Every applicant shall also, at the time of filing
20 such application, file a bond satisfactory to the division
21 of finance in an amount not to exceed fifty thousand
22 dollars. The bond shall provide that the applicant shall
23 faithfully conform to and abide by the provisions of
24 sections 436.571 to 436.580, to all rules lawfully made by
25 the director under sections 436.571 to 436.580, and to any
26 such person or persons any and all amounts of moneys that
27 may become due or owing to the state or to such person or
28 persons from the licensee under and by virtue of sections
29 436.571 to 436.580, which shall cover any actions that
30 occurred while the bond was in place for the applicable
31 period of limitations under statute and so long as the bond
32 is not exhausted by valid claims.

33 6. When an action is commenced on a licensee's bond,
34 the director may require the filing of a new bond.

35 Immediately upon any recovery on the bond, the licensee
36 shall file a new bond.

37 7. In order to ensure the effective supervision and
38 enforcement of sections 436.571 to 436.580, the director
39 may, after a contested hearing under chapter 536:

40 (1) Deny, suspend, revoke, condition, or decline to
41 renew a license for a violation of sections 436.571 to
42 436.580, rules issued under sections 436.571 to 436.580, or
43 order or directive entered under sections 436.571 to 436.580;

44 (2) Deny, suspend, revoke, condition, or decline to
45 renew a license if an applicant or licensee fails at any
46 time to meet the requirements of sections 436.571 to
47 436.580, or withholds information or makes a material
48 misstatement in an application for a license or renewal of a
49 license;

50 (3) Order restitution against persons subject to
51 sections 436.571 to 436.580 for violations of sections
52 436.571 to 436.580; and

53 (4) Order or direct such other affirmative action as
54 the director deems necessary.

55 8. Any letter issued by the director and declaring
56 grounds for denying or declining to grant or renew a license
57 may be appealed to the circuit court of Cole County. All
58 other matters presenting a contested case involving a
59 licensee may be heard by the director under chapter 536.

60 9. Whenever it shall appear to the director that any
61 litigation financier is, refusing or neglecting to make a
62 good faith effort to comply with the provisions of sections
63 436.571 to 436.580, or any laws or rules relating to
64 litigation financing, the director may issue an order to
65 cease and desist which order may be enforceable by a civil
66 penalty of not more than one thousand dollars per day for

67 each day that the neglect, failure, or refusal shall
68 continue. The penalty shall be assessed and collected by
69 the director. In determining the amount of the penalty, the
70 director shall take into account the appropriateness of the
71 penalty with respect to the gravity of the violation, the
72 history of previous violations, and such other matters as
73 justice may require.

74 10. In the event any litigation financier fails,
75 refuses, or neglects to comply with the provisions of
76 sections 436.571 to 436.580, or of any laws or rules of the
77 state of Missouri relating to litigation financing, its
78 license may be suspended or revoked by order of the director
79 after a hearing before said director on any order to show
80 cause why such order of suspension or revocation should not
81 be entered specifying the grounds therefor which shall be
82 served on the particular litigation financier at least ten
83 days prior to the hearing. Any order made and entered by
84 the director may be appealed to the circuit court of Cole
85 County.

86 11. The division shall conduct an examination of each
87 litigation financier at least once every twenty-four months
88 and such other times as the director may determine.

89 (1) In connection with any such investigation or
90 examination, the director and his or her representatives
91 shall have free and immediate access to the place or places
92 of business and the books and records, and shall have the
93 authority to place under oath all persons whose testimony
94 may be required relative to the affairs and business of the
95 litigation financier.

96 (2) The director may also make such special
97 investigations or examination as the director deems
98 necessary to determine whether any litigation financier has

99 violated any of the provisions of sections 436.571 to
100 436.580 or rules promulgated thereunder; and may assess the
101 reasonable costs of any investigation or examination
102 incurred by the division to the company.

436.573. 1. A litigation financier shall not:

2 (1) Pay or offer commissions, referral fees, or other
3 forms of consideration to any legal representative, medical
4 provider, or any of their employees for referring a consumer
5 to a litigation financier;

6 (2) Accept any commissions, referral fees, rebates, or
7 other forms of consideration from a legal representative,
8 medical provider, or any of their employees;

9 (3) Knowingly advertise false or misleading
10 information regarding its products or services;

11 (4) Refer a consumer or potential consumer to a
12 specific legal representative, medical provider, or any of
13 their employees;

14 (5) Fail to promptly supply copies of any complete
15 litigation financing contracts to the consumer and the
16 consumer's legal representative;

17 (6) Attempt to secure a remedy or obtain a waiver of
18 any remedy including, but not limited to, compensatory,
19 statutory, or punitive damages, that the consumer might
20 otherwise be or not be entitled to pursue;

21 (7) Attempt to effect arbitration or otherwise effect
22 the waiver of a consumer's right to trial by jury;

23 (8) Offer or provide legal advice to the consumer
24 regarding the litigation financing or the underlying dispute;

25 (9) Assign, which includes securitizing, a litigation
26 financing contract in whole or part;

27 (10) Report a consumer to a credit reporting agency if
28 insufficient funds remain from the net proceeds to repay the
29 litigation financier; or

30 (11) Receive or exercise any right to direct, nor make
31 any decisions with respect to, the conduct of the consumer's
32 legal claim or any settlement or resolution thereof. The
33 right to make such decisions shall remain solely with the
34 consumer and his or her legal representative.

35 2. A legal representative retained by a consumer, a
36 medical provider for such consumer, or any employee thereof
37 shall not have a financial interest in litigation financing
38 and shall not receive a referral fee or other consideration
39 from any litigation financier, its employees, its owners, or
40 its affiliates.

436.574. 1. The terms of the litigation financing
2 agreement shall be set forth in a written contract that is
3 completely filled in. There shall be no incomplete sections
4 when the contract is offered or presented to the consumer.

5 2. Litigation financing contracts shall contain the
6 disclosures specified in this section, which shall
7 constitute material terms of the litigation financing
8 contract.

9 3. The disclosures shall be typed in at least fourteen-
10 point bold font and be placed clearly and conspicuously
11 immediately above the consumer's signature line in the
12 litigation financing contract and shall be in substantially
13 the following form:

14 Consumer's Right to Cancellation: You may cancel
15 this contract without penalty or further
16 obligation within five (5) business days from the
17 date you signed this contract or received
18 financing from [insert name of the litigation
19 financier] by either returning the funds to [insert

20 name, office address and office hours of the
21 litigation financier] or by U.S. mail, [insert name
22 and mailing address of litigation financier]. For
23 return by U.S. mail, the postmark date on the
24 returned funds or, if mailed by registered or
25 certified mail, the date of the return receipt
26 requested shall be the date of return.

27 The fees charged pursuant to this agreement shall
28 not exceed [litigation financier to insert annual
29 interest percentage rate, percentage of award or
30 settlement proceeds, or dollar amount].

31 The litigation financier agrees that it has no
32 right to and will not make any decisions about the
33 conduct of your lawsuit or dispute and that the
34 right to make those decisions remains solely with
35 you and your legal representative.

36 If there is no recovery of any money from your
37 legal claim or if there is not enough money to
38 satisfy the portion assigned to [insert name of
39 the litigation financier] in full, you will not owe
40 anything in excess of your recovery.

41 Do not sign this contract before you read it
42 completely. If this contract contains any
43 incomplete sections, you are entitled to a
44 completely filled-in copy of the contract prior to
45 signing it. Before you sign this contract, you
46 should obtain the advice of an attorney.
47 Depending on the circumstances you may want to
48 consult a tax advisor, a financial professional,
49 or an accountant.

50 4. If the consumer is represented by a legal
51 representative in the dispute that is the subject of the
52 litigation financing contract, the legal representative
53 shall acknowledge in the contract that the legal
54 representative or its employer or employees have neither
55 received nor paid a referral fee or any other consideration

56 from or to the litigation financier, nor will in the future
57 do so.

58 5. If the consumer's legal representative is a party
59 to a litigation financing agreement related to the
60 consumer's legal proceeding, the legal representative shall
61 share with the consumer the agreement between the legal
62 representative and the litigation financier. The agreement
63 shall be accompanied by the disclosure required by this
64 section, and the consumer shall sign both an acknowledgment
65 that the agreement has been read and the required disclosure.

436.575. 1. Except as otherwise stipulated or ordered
2 by the court, a consumer or the consumer's legal
3 representative shall, without awaiting a discovery request,
4 provide to all parties to the litigation, including the
5 consumer's insurer if prior to litigation, any litigation
6 financing contract.

7 2. The existence of litigation financing and all
8 participants in such financing arrangements are permissible
9 subjects of discovery in all personal injury litigation or
10 matters arising out of personal injuries.

436.577. Sections 436.571 to 436.580 shall apply to
2 any class action. Putative class members and the court
3 shall be advised that the proposed class attorney has a
4 legal or financial relationship with a litigation financier.

436.578. Sections 436.571 to 436.580 shall not apply
2 to litigation financing provided to commercial enterprises
3 in support of litigation strictly between commercial
4 enterprises. This exemption does not apply to any personal
5 injury claim, situations arising from a personal injury
6 claim, or an aggregation of personal injury claims, whether
7 by subrogation, assignment, or any other basis.

436.579. The practice of litigation financing shall be
2 regulated by the division of finance. The commissioner of
3 the division of finance may promulgate all necessary rules
4 and regulations for the administration of this section. Any
5 rule or portion of a rule, as that term is defined in
6 section 536.010, that is created under the authority
7 delegated in this section shall become effective only if it
8 complies with and is subject to all of the provisions of
9 chapter 536 and, if applicable, section 536.028. This
10 section and chapter 536 are nonseverable, and if any of the
11 powers vested with the general assembly pursuant to chapter
12 536 to review, to delay the effective date, or to disapprove
13 and annul a rule are subsequently held unconstitutional,
14 then the grant of rulemaking authority and any rule proposed
15 or adopted after August 28, 2023, shall be invalid and void.

436.580. Any violation of the provisions of sections
2 436.571 to 436.580 shall make the litigation financing
3 contract unenforceable by the litigation financier, the
4 consumer, or any successor-in-interest to the litigation
5 financing contract.

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