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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/08/2024	.	
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The Committee on Fiscal Policy (Collins) recommended the following:

**Senate Amendment**

Delete lines 104 - 302  
and insert:

(f) Funding provided to a nonprofit organization, provided the nonprofit organization uses the funding to seek relief other than compensatory damages in excess of \$100,000 or punitive damages, whether as a party or on behalf of a client or member of the organization, and irrespective of whether the nonprofit organization seeks an award of costs or attorney fees in



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11 providing pro bono representation.

12 (g) Funding provided by a nonprofit organization exempt  
13 from federal income tax under s. 501(c)(3) of the United States  
14 Internal Revenue Code, by grant or otherwise, to support the  
15 pursuit of litigation that does not seek compensatory damages in  
16 excess of \$100,000 or punitive damages.

17 (6) "National security interests" means those interests  
18 relating to the national defense, foreign intelligence and  
19 counterintelligence, international, and domestic security, and  
20 foreign relations.

21 (7) "Proprietary information" means information developed,  
22 created, or discovered by a person, or which became known by or  
23 was conveyed to the person, which has commercial value in the  
24 person's business. The term includes, but is not limited to,  
25 domain names, trade secrets, copyrights, ideas, techniques,  
26 inventions, regardless of whether patentable, and other  
27 information of any type relating to designs, configurations,  
28 documentation, recorded data, schematics, circuits, mask works,  
29 layouts, source code, object code, master works, master  
30 databases, algorithms, flow charts, formulae, works of  
31 authorship, mechanisms, research, manufacture, improvements,  
32 assembly, installation, intellectual property including patents  
33 and patent applications, and information concerning the person's  
34 actual or anticipated business, research, or development or  
35 received in confidence by or for the person from any other  
36 source.

37 (8) "Sovereign wealth fund" means an investment fund owned  
38 or controlled by a foreign principal or an agent thereof.

39 69.103 Litigation financing agreement; representation of



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40 client interests.—A court may take the existence of a litigation  
41 financing agreement into account:

42 (1) In a class action lawsuit brought in the courts of this  
43 state when determining whether a class representative or class  
44 counsel would adequately and fairly represent the interests of  
45 the class.

46 (2) In actions involving a common question of law or fact  
47 pending before the court which may be or have been consolidated  
48 when determining whether the lead counsel or any co-lead counsel  
49 would adequately and fairly represent the interests of the  
50 parties to such actions.

51 69.105 Prohibited conduct.—A litigation financier may not:

52 (1) Direct, or make any decisions with respect to, the  
53 course of any civil action, administrative proceeding, claim, or  
54 other legal proceeding for which the litigation financier has  
55 provided financing, or any settlement or other disposition  
56 thereof. This prohibition includes, but is not limited to,  
57 decisions in appointing or changing counsel, choice or use of  
58 expert witnesses, and litigation strategy. All rights to make  
59 decisions with respect to the course and settlement or other  
60 disposition of the subject civil action, administrative  
61 proceeding, claim, or other legal proceeding remain solely with  
62 the parties to such action, claim, or proceeding and their  
63 counsel of record.

64 (2) Contract for or receive, whether directly or  
65 indirectly, a larger share of the proceeds of a civil action,  
66 administrative proceeding, claim, or other legal proceeding  
67 financed by a litigation financing agreement than the share of  
68 the proceeds collectively recovered by the plaintiffs to any



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69 such action, claim, or proceeding after the payment of any  
70 attorney fees and costs owed in connection to such action,  
71 claim, or proceeding.

72 (3) Pay or offer to pay a commission, referral fee, or  
73 other consideration to any person, including an attorney, law  
74 firm, or health care practitioner, for referring a person to the  
75 litigation financier.

76 (4) Assign or securitize a litigation financing agreement  
77 in whole or in part.

78 (5) Be assigned rights to or in a civil action,  
79 administrative proceeding, claim, or other legal proceeding for  
80 which the litigation financier provided financing, other than  
81 the right to receive a share of the proceeds of such action,  
82 claim, or proceeding pursuant to the litigation financing  
83 agreement.

84 69.107 Required disclosures; discovery obligations.-

85 (1) An attorney who enters into a litigation financing  
86 agreement must disclose the existence and deliver a copy of the  
87 agreement to the client he or she represents in the civil  
88 action, administrative proceeding, claim, or other legal  
89 proceeding financed by the agreement within 30 days after being  
90 retained as counsel by such client, or within 30 days after  
91 entering into the litigation financing agreement, whichever is  
92 earlier.

93 (2) Except as otherwise stipulated to by the parties to a  
94 civil action, administrative proceeding, claim, or other legal  
95 proceeding, or as otherwise ordered by a court of competent  
96 jurisdiction, a party to or counsel of record for a civil  
97 action, administrative proceeding, claim, or other legal



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98 proceeding who enters into a litigation financing agreement with  
99 respect to such action, claim, or proceeding must, without  
100 awaiting a discovery request and within 30 days after  
101 commencement of such action, claim, or proceeding, disclose the  
102 existence and deliver to the following parties a copy of the  
103 litigation financing agreement:

104 (a) All parties to the civil action, administrative  
105 proceeding, claim, or other legal proceeding.

106 (b) The court, agency, or tribunal in which the civil  
107 action, administrative proceeding, claim, or other legal  
108 proceeding is pending.

109 (c) Any known person, including an insurer, with a  
110 preexisting contractual obligation to indemnify or defend a  
111 party to the civil action, administrative proceeding, claim, or  
112 other legal proceeding.

113 (3) In addition to complying with subsections (1) and (2),  
114 the class counsel of a putative class in a class action lawsuit  
115 for which litigation financing is obtained must disclose to the  
116 following persons the existence of any legal, financial, or  
117 other relationship between the class counsel and the litigation  
118 financier that exists separate and apart from the litigation  
119 financing agreement itself within 30 days after commencement of  
120 such action or of the execution of the litigation financing  
121 agreement, whichever is earlier:

122 (a) All parties to the civil action, administrative  
123 proceeding, claim, or other legal proceeding.

124 (b) The court, agency, or tribunal in which the civil  
125 action, administrative proceeding, claim, or other legal  
126 proceeding is pending.



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127       (c) Any known person, including an insurer, with a  
128 preexisting contractual obligation to indemnify or defend a  
129 party to the civil action, administrative proceeding, claim, or  
130 other legal proceeding.

131       (4) The class counsel in a class action or putative class  
132 action lawsuit for which litigation financing is obtained must,  
133 upon the request of a class member, disclose and deliver a copy  
134 of the litigation financing agreement to the class member.

135       (5) In addition to complying with subsections (1) and (2),  
136 the lead counsel and co-lead counsel, if any, for civil actions  
137 consolidated in the courts of this state must disclose to the  
138 following parties the existence of and deliver a copy of any  
139 litigation financing agreement entered into in connection with  
140 any of the consolidated actions:

141           (a) All parties to the consolidated civil actions.

142           (b) The court, agency, or tribunal in which the civil  
143 actions are pending.

144       (c) Any known person, including an insurer, with a  
145 preexisting contractual obligation to indemnify or defend a  
146 party to the civil actions.

147       (6) (a) A party to a civil action, administrative  
148 proceeding, claim, or other legal proceeding, or such party's  
149 counsel of record, must, except as otherwise stipulated to by  
150 the parties to such action, claim, or proceeding, or as  
151 otherwise ordered by a court of competent jurisdiction, disclose  
152 as prescribed in paragraph (b) the name, address, and  
153 citizenship or country of incorporation or registration of any  
154 foreign person, foreign principal, or sovereign wealth fund  
155 that, with respect to the action, claim, or proceeding:



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156       1. Obtained or will obtain a right to receive any payment  
157 that is contingent in any respect on the outcome of such civil  
158 action, administrative proceeding, claim, or other legal  
159 proceeding, or on the outcome of any matter within a portfolio  
160 that includes such civil action, administrative proceeding,  
161 claim, or other legal proceeding and involves the same counsel  
162 or affiliated counsel;

163       2. Provided or will provide funds, whether directly or  
164 indirectly, which funds have been or will be used to satisfy any  
165 term of a litigation financing agreement into which the party or  
166 the party's counsel of record has entered to finance such civil  
167 action, administrative proceeding, claim, or other legal  
168 proceeding; or

169       3. Has received or is entitled to receive proprietary  
170 information or information affecting national security interests  
171 obtained as a result of the financing of such civil action,  
172 administrative proceeding, claim, or other legal proceeding by a  
173 litigation financing agreement entered into by the party or the  
174 party's counsel of record.

175       (b) The disclosures required in paragraph (a) must be made  
176 to the following persons:

177       1. All parties to the civil action, administrative  
178 proceeding, claim, or other legal proceeding.

179       2. The court, agency, or tribunal in which the civil  
180 action, administrative proceeding, claim, or other legal  
181 proceeding is pending.

182       3. Any known person, including an insurer, with a  
183 preexisting contractual obligation to indemnify or defend a  
184 party to the civil action, administrative proceeding, claim, or



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185 other legal proceeding.

186 4. The Department of Financial Services.

187 5. The Office of the Attorney General.

188 (7) The fact of the existence of a litigation financing  
189 agreement and the identities of all parties to the agreement are  
190 discoverable in any civil action, administrative proceeding,  
191 claim, or other legal proceeding financed by such an agreement,  
192 unless the court, for good cause shown, determines otherwise.

193 (8) The disclosure obligations in this section are ongoing  
194 obligations. Thus, when a party to a civil action,  
195 administrative proceeding, claim, or other legal proceeding, or  
196 his or her counsel of record:

197 (a) Enters into or amends a litigation financing agreement  
198 after the commencement of such action, claim, or proceeding, the  
199 party or attorney has 30 days after the date of entering into or  
200 amending the litigation financing agreement to comply with the  
201 disclosure obligations established herein.

202 (b) Obtains information on the involvement of a foreign  
203 person, foreign principal, or sovereign wealth fund after the  
204 commencement of such action, claim, or proceeding, which  
205 involvement would require disclosure under this section, the  
206 party or attorney has 30 days after the date of obtaining the  
207 information to comply with the disclosure obligations  
208 established herein.

209 (9) (a) A party, or the party's counsel, who is required to  
210 disclose a copy of the litigation financing agreement under  
211 subsection (2) or subsection (5) may redact from the agreement  
212 the dollar amounts being financed. Another party may petition  
213 the circuit court in the county where the civil action,



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214 administrative proceeding, claim, or other legal proceeding is  
215 pending to:

216 1. Dispute the extent of such redactions if information  
217 other than the dollar amounts being financed has been improperly  
218 redacted from the agreement; or

219 2. Show cause that the dollar amounts being financed should  
220 be disclosed.

221 (b) In the case of such petition, the party or counsel  
222 disclosing the agreement shall submit an unredacted copy of the  
223 agreement to the court for inspection in camera. If the court  
224 finds that information other than the dollar amounts being  
225 financed has been improperly redacted from the agreement or that  
226 cause has been shown to disclose the dollar amounts being  
227 financed, the court must order that such information be  
228 disclosed to all parties to whom the agreement must be  
229 disclosed.