

CHAPTER 407

COURTS

HOUSE BILL 25-1329

BY REPRESENTATIVE(S) Mabrey and Soper, Bacon, Caldwell, Clifford, Espenoza, Garcia, Ricks, Rutinel, Sirota, Story, Zokaie; also SENATOR(S) Frizell and Gonzales J.

AN ACT

CONCERNING FOREIGN THIRD-PARTY LITIGATION FINANCING FOR CIVIL ACTIONS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add** 13-16-126 as follows:

13-16-126. Transparency and limitations on third-party litigation funding - unfair or deceptive trade practices - enforcement - definitions. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

- (a) "ATTORNEY" MEANS AN ATTORNEY, GROUP OF ATTORNEYS, OR LAW FIRM THAT REPRESENTS A PARTY IN A CIVIL ACTION IN THIS STATE.
- (b) "FOREIGN COUNTRY OF CONCERN" MEANS A FOREIGN GOVERNMENT LISTED IN 15 CFR 7.4 AND INCLUDES AN AGENCY OF, OR ANY OTHER ENTITY WITH SIGNIFICANT CONTROL OF, THE FOREIGN COUNTRY OF CONCERN.
- (c) "FOREIGN ENTITY" MEANS AN ENTITY THAT IS EITHER OWNED OR CONTROLLED BY THE GOVERNMENT OF A FOREIGN COUNTRY OF CONCERN OR A PARTNERSHIP, ASSOCIATION, CORPORATION, OR ORGANIZATION UNDER THE LAW OF, OR HAVING ITS PRINCIPAL PLACE OF BUSINESS IN, A FOREIGN COUNTRY OF CONCERN OR A SUBSIDIARY THEREOF.
- (d) "FOREIGN THIRD-PARTY LITIGATION FUNDER" MEANS A FOREIGN ENTITY THAT IS A THIRD-PARTY LITIGATION FUNDER.
- (e) "LITIGATION EXPENSES" MEANS COSTS TYPICALLY INCURRED IN THE COURSE OF CIVIL LITIGATION, INCLUDING FILING FEES, EXPERT WITNESS FEES, TRANSCRIPT FEES, COURT COSTS, TRAVEL EXPENSES, AND OFFICE OVERHEAD. "LITIGATION

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

EXPENSES" DOES NOT INCLUDE FUNDS INTENDED FOR USE BY A PARTY FOR PERSONAL OR FAMILIAL EXPENSES SUCH AS FOOD, RENT, MORTGAGE PAYMENTS, CAR PAYMENTS, OR MEDICAL BILLS.

(f) "LITIGATION FINANCING" MEANS THE FINANCING, FUNDING, ADVANCING, OR LENDING OF MONEY TO PAY FOR LITIGATION EXPENSES OR AN AGREEMENT TO PAY LITIGATION EXPENSES DIRECTLY RELATED TO PURSUING A LEGAL CLAIM, ADMINISTRATIVE PROCEEDING, OR CAUSE OF ACTION IF THE FINANCING, FUNDING, ADVANCING, OR LENDING OF MONEY IS PROVIDED BY A PERSON OTHER THAN THE PERSON WHO IS:

(I) A PARTY TO THE CIVIL ACTION, ADMINISTRATIVE PROCEEDING, CLAIM, OR CAUSE OF ACTION;

(II) AN ATTORNEY ENGAGED DIRECTLY OR INDIRECTLY THROUGH ANOTHER LEGAL REPRESENTATIVE TO REPRESENT A PARTY IN THE CIVIL ACTION; OR

(III) AN ENTITY OR INSURER WITH A PREEXISTING CONTRACTUAL OBLIGATION TO INDEMNIFY OR DEFEND A PARTY TO THE CIVIL ACTION.

(g) "LITIGATION FINANCING AGREEMENT" MEANS A TRANSACTION THAT PROVIDES LITIGATION FINANCING TO A PARTY OR A PARTY'S ATTORNEY IN RETURN FOR ASSIGNING THE THIRD-PARTY LITIGATION FUNDER A RIGHT TO RECEIVE AN AMOUNT THAT INCLUDES THE PAYMENT OF INTEREST, FEES, OR ANY OTHER CONSIDERATION CONTINGENT ON THE OUTCOME OF THE CLAIM OR ACTION. "LITIGATION FINANCING AGREEMENT" DOES NOT INCLUDE:

(I) LEGAL SERVICES PROVIDED TO A PARTY BY AN ATTORNEY ON A CONTINGENCY FEE BASIS OR LEGAL COSTS ADVANCED BY AN ATTORNEY WHEN THE SERVICES OR COSTS ARE PROVIDED TO OR ON BEHALF OF A PARTY BY AN ATTORNEY IN THE DISPUTE AND IN ACCORDANCE WITH THE RULES OF PROFESSIONAL CONDUCT;

(II) BILLS, RECEIVABLES, OR LIENS HELD BY A HEALTH-CARE PROVIDER OR THEIR ASSIGNEE;

(III) LOANS MADE DIRECTLY TO A PARTY OR A PARTY'S ATTORNEY WHEN REPAYMENT OF THE LOAN IS NOT CONTINGENT UPON THE JUDGMENT, AWARD, SETTLEMENT, OR VERDICT IN A CLAIM OR ACTION; OR

(IV) FUNDING PROVIDED BY A NONPROFIT ORGANIZATION EXEMPT FROM FEDERAL INCOME TAXATION UNDER SECTION 501(c)(3) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986".

(h) "NATIONAL SECURITY INTEREST" MEANS INTERESTS RELATING TO THE NATIONAL DEFENSE, FOREIGN INTELLIGENCE AND COUNTERINTELLIGENCE, INTERNATIONAL AND DOMESTIC SECURITY, AND FOREIGN RELATIONS.

(i) "PARTY" MEANS A PERSON OR ENTITY IN A CIVIL ACTION.

(j) "PROPRIETARY INFORMATION" MEANS INFORMATION DEVELOPED, CREATED, OR DISCOVERED BY A PERSON, OR THAT BECAME KNOWN BY OR WAS CONVEYED TO

THE PERSON, THAT HAS A COMMERCIAL VALUE IN THE PERSON'S BUSINESS AND INCLUDES DOMAIN NAMES, TRADE SECRETS, COPYRIGHTS, IDEAS, TECHNIQUES, INVENTIONS, AND OTHER INFORMATION RELATING TO DESIGNS, CONFIGURATIONS, DOCUMENTATION, RECORDED DATA, SCHEMATICS, CIRCUITS, MASK WORKS, LAYOUTS, SOURCE CODE, OBJECT CODE, MASTER WORKS, MASTER DATABASES, ALGORITHMS, FLOW CHARTS, FORMULAS, WORKS OF AUTHORSHIP, MECHANISMS, RESEARCH, MANUFACTURE, IMPROVEMENTS, ASSEMBLY, INSTALLATION, INTELLECTUAL PROPERTY INCLUDING PATENTS AND PATENT APPLICATIONS, AND INFORMATION CONCERNING A PERSON'S ACTUAL OR ANTICIPATED BUSINESS, RESEARCH, OR DEVELOPMENT.

(k) "THIRD-PARTY LITIGATION FUNDER" MEANS A PERSON OR ENTITY THAT PROVIDES LITIGATION FINANCING TO A PARTY OR ATTORNEY IN A CIVIL ACTION AND HAS THE CONTRACTUAL RIGHT TO RECEIVE OR MAKE A PAYMENT THAT IS CONTINGENT ON THE OUTCOME OF AN IDENTIFIED CIVIL ACTION BY SETTLEMENT, JUDGMENT, OR OTHERWISE ON THE OUTCOME OF A MATTER WITHIN A PORTFOLIO THAT INCLUDES THE CIVIL ACTION . THIS TERM DOES NOT APPLY TO:

(I) THE NAMED PARTIES OR ATTORNEYS WHO PROVIDE FUNDING FOR LITIGATION EXPENSES RELATED TO THE CIVIL ACTION;

(II) A PERSON OR ENTITY PROVIDING FUNDING SOLELY INTENDED TO PAY COSTS OF LIVING OR OTHER PERSONAL OR FAMILIAL EXPENSES DURING THE PENDENCY OF THE CIVIL ACTION;

(III) THE NAMED PARTIES OR ATTORNEYS WHO PROVIDE FUNDING, INCLUDING ON A CONTINGENCY FEE BASIS OR TO ADVANCE THE NAMED PARTIES' LEGAL EXPENSES RELATED TO THE CIVIL ACTION;

(IV) A HEALTH INSURER, MEDICAL PROVIDER, OR ASSIGNEE THAT HAS PAID, IS OBLIGATED TO PAY, OR IS OWED MONEY FOR HEALTH-CARE SERVICES RENDERED TO AN INJURED PERSON WHO IS A PARTY TO THE CIVIL ACTION PURSUANT TO THE TERMS OF A HEALTH INSURANCE PLAN OR OTHER AGREEMENT;

(V) A FINANCIAL INSTITUTION PROVIDING LOANS MADE DIRECTLY TO A PARTY OR ATTORNEY WHEN REPAYMENT OF THE LOAN IS NOT CONTINGENT UPON THE OUTCOME OF THE CIVIL ACTION OR ON THE OUTCOME OF A MATTER WITHIN A PORTFOLIO THAT INCLUDES THE CIVIL ACTION AND INVOLVES THE SAME ATTORNEY; OR

(VI) A NONPROFIT LEGAL ORGANIZATION EXEMPT FROM FEDERAL INCOME TAXATION UNDER SECTION 501(c)(3) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", OR A PERSON PROVIDING FUNDING TO A NONPROFIT LEGAL ORGANIZATION THAT REPRESENTS CLIENTS ON A PRO BONO BASIS. THIS SUBSECTION (1)(k)(VI) DOES NOT AFFECT THE AWARD OF COSTS OR ATTORNEY FEES TO A NONPROFIT LEGAL ORGANIZATION OR RELATED ATTORNEY.

(2) A FOREIGN THIRD-PARTY LITIGATION FUNDER SHALL:

(a) DISCLOSE IN WRITING 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

(b) SUBMIT TO THE ATTORNEY GENERAL A COPY OF THE LITIGATION FINANCING AGREEMENT CREATING THE CONTINGENT RIGHT TO RECEIVE PAYMENT DESCRIBED IN SUBSECTION (2)(a) OF THIS SECTION.

(3) THE DISCLOSURE AND CERTIFICATION REQUIRED BY SUBSECTION (2) OF THIS SECTION MUST BE MADE UPON FILING THE CIVIL ACTION OR, IF THE CIVIL ACTION IS FILED PRIOR TO THE EXECUTION OF A LITIGATION FINANCING AGREEMENT, WITHIN THIRTY-FIVE DAYS AFTER THE EXECUTION OF THE LITIGATION FINANCING AGREEMENT.

(4) THE DECLARANT SHALL MAKE THE DISCLOSURE AND CERTIFICATION REQUIRED BY SUBSECTION (2) OF THIS SECTION UNDER PENALTY OF PERJURY BASED ON ACTUAL KNOWLEDGE OF THE DECLARANT FORMED AFTER REASONABLE INQUIRY. THE FOREIGN THIRD-PARTY LITIGATION FUNDER SHALL PROVIDE THE DISCLOSURE AND CERTIFICATION TO THE ATTORNEY GENERAL, AND THE ATTORNEY GENERAL SHALL MAINTAIN THE DISCLOSURE TO PRESERVE THE CONFIDENTIALITY OF THE PARTIES AND ATTORNEYS.

(5) IF, AFTER SUBMITTING THE DISCLOSURE AND CERTIFICATION REQUIRED BY SUBSECTION (2) OF THIS SECTION, THE FOREIGN THIRD-PARTY LITIGATION FUNDER LEARNS THAT THE INFORMATION DISCLOSED IS INCOMPLETE OR INACCURATE, THE FOREIGN THIRD-PARTY LITIGATION FUNDER MUST SUPPLEMENT OR CORRECT THE INCOMPLETE OR INACCURATE DISCLOSURE OR CERTIFICATION WITHIN THIRTY-FIVE DAYS AFTER LEARNING OF THE INCOMPLETE OR INACCURATE INFORMATION.

(6) A FOREIGN THIRD-PARTY LITIGATION FUNDER SHALL NOT:

(a) UTILIZE A DOMESTIC ENTITY AS A MEANS OF PROVIDING LITIGATION FINANCING TO A PARTY OR ATTORNEY IN A CIVIL ACTION;

(b) DECIDE, INFLUENCE, OR DIRECT AN ATTORNEY WITH RESPECT TO THE CONDUCT OF THE CIVIL ACTION OR ANY SETTLEMENT OR RESOLUTION OF THE CIVIL ACTION. THE RIGHT TO DECIDE, INFLUENCE, OR DIRECT MATTERS RELATED TO A CASE BELONGS SOLELY TO THE PARTIES AND ATTORNEYS.

(c) BE ASSIGNED RIGHTS TO PROFITS OTHER THAN THE RIGHT TO RECEIVE A SHARE OF THE PROCEEDS AWARDED IN THE CIVIL ACTION AS OUTLINED IN THE LITIGATION FINANCING AGREEMENT; OR

(d) SHARE PROPRIETARY INFORMATION, OR INFORMATION AFFECTING NATIONAL SECURITY INTERESTS OBTAINED AS A RESULT OF THE LITIGATION FINANCING AGREEMENT FOR THE CIVIL ACTION, WITH ANYONE WHO IS NOT A PARTY OR AN ATTORNEY.

(7) 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.

(8) A LITIGATION FINANCING AGREEMENT THAT DOES NOT COMPLY WITH THE REQUIREMENTS OF THIS SECTION IS VOID.

(9) A VIOLATION OF THIS SECTION CONSTITUTES A DECEPTIVE OR UNFAIR TRADE PRACTICE PURSUANT TO SECTION 6-1-105.

(10) THE ATTORNEY GENERAL MAY INSTITUTE A LEGAL ACTION IN A COURT OF COMPETENT JURISDICTION TO ENFORCE COMPLIANCE WITH THIS SECTION, IMPOSE FINES, PROHIBIT A FOREIGN THIRD-PARTY LITIGATION FUNDER FROM OPERATING WITHIN THIS STATE, OR IMPOSE ANY OTHER SANCTION THE ATTORNEY GENERAL DEEMS APPROPRIATE FOR A VIOLATION OF THIS SECTION.

(11)(a) BEGINNING JANUARY 2026, AND IN JANUARY EVERY YEAR THEREAFTER, THE DEPARTMENT OF LAW SHALL INCLUDE AS PART OF ITS PRESENTATION DURING ITS "SMART ACT" HEARING REQUIRED BY SECTION 2-7-203, INFORMATION CONCERNING THE ADMINISTRATION OF THIS SECTION AND MUST INCLUDE THE FOLLOWING:

(I) THE NAME, CITIZENSHIP, OR COUNTRY OF INCORPORATION OR REGISTRATION OF THE FOREIGN ENTITY AND WHETHER THE FOREIGN ENTITY PROVIDED FUNDS FOR A PURPOSE OTHER THAN TO DEFRAY LITIGATION EXPENSES OR THE FINANCIAL IMPACT OF A NEGATIVE JUDGEMENT; AND

(II) WHETHER A FOREIGN THIRD-PARTY LITIGATION FUNDER VIOLATED THE PROVISIONS OF THIS SECTION, AND IF SO, WHAT THE VIOLATIONS WERE AND WHETHER THE ATTORNEY GENERAL TOOK ENFORCEMENT ACTION AGAINST THE FOREIGN THIRD-PARTY LITIGATION FUNDER.

(b) THE INFORMATION DESCRIBED IN SUBSECTION (11)(a) OF THIS SECTION MUST NOT IDENTIFY THE PARTIES INVOLVED IN A CIVIL ACTION OR THE ATTORNEY REPRESENTING THE PARTIES IN THE CIVIL ACTION.

(12) THIS SECTION DOES NOT APPLY TO A NONPROFIT ORGANIZATION FUNDED BY PRIVATE DONORS THAT REPRESENTS CLIENTS ON A PRO BONO BASIS.

SECTION 2. In Colorado Revised Statutes, 6-1-105, **add** (1)(nnnn) as follows:

6-1-105. Unfair or deceptive trade practices - definitions. (1) A person engages in a deceptive trade practice when, in the course of the person's business, vocation, or occupation, the person:

(nnnn) VIOLATED SECTION 13-16-126.

SECTION 3. In Colorado Revised Statutes, 24-31-101, **amend** (1)(i)(XXII) and (1)(i)(XXIII); and **add** (1)(i)(XXXI) as follows:

24-31-101. Powers and duties of attorney general. (1) The attorney general:

(i) May independently initiate and bring civil and criminal actions to enforce state laws, including actions brought pursuant to:

(XXII) Part 14 of article 12 of title 38; ~~and~~

(XXIII) Section 24-34-806; AND

(XXXI) SECTION 13-16-126.

SECTION 4. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2026 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: June 3, 2025