

HOUSE BILL 223

57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026

## INTRODUCED BY

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10 | AN ACT

11 RELATING TO LITIGATION; ENACTING THE LITIGATION FINANCING  
12 TRANSPARENCY ACT; REQUIRING DISCLOSURES; PROVIDING ENFORCEMENT.

14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

15 SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be  
16 cited as the "Litigation Financing Transparency Act".

17 SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the  
18 Litigation Financing Transparency Act:

C. "foreign person" means a person that is not:

(1) a citizen of the United States;

(2) an alien lawfully admitted for permanent residence in the United States;

(3) an unincorporated association with a majority number of members of which are citizens of the United States or aliens lawfully admitted for permanent residence in the United States; or

(4) a corporation, limited liability company, partnership, society or other business entity that was formed or incorporated in the United States;

D. "foreign principal" means:

(1) the government or a government official of a country other than the United States;

(2) a political subdivision or political party of a country other than the United States; or

(3) a partnership, an association, a corporation, an organization or other combination of persons organized pursuant to the laws of or having its principal place of business in a country other than the United States whose shares or other ownership interest is owned by the government or a government official of a country other than the United States or owned by a political subdivision or political party of a country other than the United States:

E. "funded consumer" means a person who has entered

1 into a litigation financing agreement or whose recovery or  
2 outcome in an action is affected by or subject to a litigation  
3 financing agreement;

4 F. "health care provider" means:

5 (1) a person licensed by the state to provide  
6 health care, medical services, nursing services or other  
7 health-related services and includes officers, employees and  
8 agents of the person; or

9 (2) a federally licensed, regulated or  
10 registered blood bank, blood center or plasma center that  
11 collects, processes or distributes whole human blood, blood  
12 components, plasma, blood fractions or blood derivatives and  
13 includes the officers, employees and agents of the blood bank,  
14 blood center or plasma center;

15 G. "leadership position" means a lead counsel, a  
16 co-lead counsel, a common benefit counsel, a steering committee  
17 member, an executive committee member or similar positions or  
18 roles;

19 H. "litigation financier" means a person that has  
20 entered into a litigation financing agreement with a funded  
21 consumer or with the counsel of record for a party to an  
22 action;

23 I. "litigation financing agreement" means an  
24 agreement for which a person agrees to provide financing,  
25 funding, advancing or loaning of money to pay for fees, costs,

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1 expenses or other sums arising from or in a manner related to  
2 an action in exchange for the right to receive repayment,  
3 interest, fees or other consideration that cumulatively exceeds  
4 the amount of money given by the person and that is contingent  
5 on the outcome of an action or on the outcome of a matter  
6 within a portfolio that includes the action and involves the  
7 same counsel or affiliated counsel;

8 J. "proprietary information" means information that  
9 is developed, created or discovered by a person or that became  
10 known by or was conveyed to the person that has commercial  
11 value in the person's actual or anticipated business, research  
12 or development or that is received in confidence by or for the  
13 person from any source; and

14 K. "sovereign wealth fund" means an investment fund  
15 that is owned or controlled by a foreign principal or an agent  
16 of a foreign principal.

17 **SECTION 3. [NEW MATERIAL] LITIGATION FINANCING**  
18 AGREEMENTS--EXCLUSIONS.--Excluded from the provisions of this  
19 section are agreements, contracts or arrangements entered into  
20 with or by:

21 A. a named party to the action if payments made to  
22 the named party are provided exclusively for personal and  
23 family use and are provided on the condition that they are not  
24 to be used for legal filings, legal document preparation and  
25 drafting, appeals, creation of a litigation strategy, drafting

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1                   testimony or other expenses directly related to litigation;

2                   B. a counsel of record for legal services provided  
3                   on a contingency fee basis or advanced legal costs provided by  
4                   a counsel of record;

5                   C. a person with a preexisting contractual  
6                   obligation to indemnify or defend a party to the action or a  
7                   health insurer that has paid or is obligated to pay sums for  
8                   health care services rendered to an injured person pursuant to  
9                   the terms of a health insurance policy, plan or agreement;

10                  D. a financial institution for repayment of loans  
11                  made directly to a party or a party's counsel when repayment of  
12                  the loan is not contingent on the outcome of an action by  
13                  settlement, judgment or otherwise or on the outcome of a matter  
14                  within a portfolio that includes the action and involves the  
15                  same counsel or affiliated counsel;

16                  E. an organization that is exempt from taxation  
17                  pursuant to Section 501(c)(3) of the United States Internal  
18                  Revenue Code of 1986 if the funding provided to the  
19                  organization is used to seek relief other than compensatory  
20                  damages in excess of one hundred thousand dollars (\$100,000) or  
21                  punitive damages, whether as a party or on behalf of a client  
22                  or member of the organization and regardless of whether the  
23                  organization seeks an award of costs or attorney fees in  
24                  providing pro bono representation;

25                  F. an organization that is exempt from taxation

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1 pursuant to Section 501(c)(3) of the United States Internal  
2 Revenue Code of 1986 that provides funding by grant or  
3 otherwise to support the pursuit of litigation that does not  
4 seek compensatory damages in excess of one hundred thousand  
5 dollars (\$100,000) or punitive damages; or

6                   G. a person that provides funding to a medical  
7 practice or facility solely for its receivables.

8                   **SECTION 4. [NEW MATERIAL] PROHIBITED CONDUCT.--A**  
9 litigation financier shall not:

10                  A. direct or make decisions with respect to the  
11 course of an action that is subject to a litigation financing  
12 agreement, including decisions concerning appointing or  
13 changing counsel representing the funded consumer, choice of or  
14 use of expert witnesses and litigation strategy. The funded  
15 consumer and counsel of record shall retain all rights to  
16 decision making and control with regard to the action;

17                  B. pay or offer to pay a commission, a referral fee  
18 or other consideration to a person, including legal counsel, a  
19 law firm or a health care provider, for referring a person to  
20 the litigation financier;

21                  C. assign, including securitizing, a litigation  
22 financing agreement in whole or in part; or

23                  D. be assigned rights to an action that is subject  
24 to a litigation financing agreement to which that litigation  
25 financier is a party.

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1                   **SECTION 5. [NEW MATERIAL] MANDATORY DISCLOSURES.--**

2                   A. Legal counsel that enters into a litigation  
3 financing agreement must deliver a copy of the litigation  
4 financing agreement to all persons the legal counsel is  
5 representing in the subject action within thirty days after the  
6 earlier of being retained as legal counsel or entering into the  
7 litigation financing agreement.

8                   B. Except as otherwise stipulated or ordered by a  
9 court of competent jurisdiction, a party to an action or the  
10 party's legal counsel of record, without awaiting a discovery  
11 request and within thirty days after commencement of the  
12 action, shall:

13                   (1) deliver a copy of the litigation financing  
14 agreement to:

15                   (a) all parties to the action or to the  
16 parties' legal counsels of record;

17                   (b) the court, agency or tribunal in  
18 which the action is pending;

19                   (c) a known person with a preexisting  
20 contractual obligation to indemnify or defend a party to the  
21 action, including an insurer providing indemnification or  
22 paying a party's defense costs;

23                   (d) for a class action, a member of the  
24 class on request; and

25                   (e) for multidistrict litigation

1 consolidated in this state, all legal counsel approved or  
2 appointed to a leadership position;

3 (2) disclose in writing to the persons listed  
4 in Paragraph (1) of this subsection the existence and nature of  
5 a legal, financial or other relationship between legal counsel  
6 for the party to the action that is subject to a litigation  
7 financing agreement and the litigation financier; and

8 (3) disclose in writing to the persons listed  
9 in Paragraph (1) of this subsection, the United States  
10 department of state and the United States department of justice  
11 the name, address and citizenship or country of incorporation  
12 or registration of a foreign person, foreign principal or  
13 sovereign wealth fund, other than named parties or legal  
14 counsel of record:

15 (a) that has a right to receive a  
16 payment that is contingent on the outcome of the action by  
17 settlement, judgment or otherwise, or on the outcome of a  
18 matter within a portfolio that includes the action and involves  
19 the same or affiliated legal counsel;

20 (b) from which money that is used to  
21 satisfy a term of the litigation financing agreement has been  
22 or will be directly or indirectly sourced, in whole or in part;  
23 or

24 (c) that has received or is entitled to  
25 receive proprietary information or information that encompasses

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1       national defense, foreign intelligence and counterintelligence,  
2       international and internal security and foreign relations of  
3       the United States.

4                   C. The disclosure obligations required by this  
5       section are continuing obligations and are triggered on a named  
6       party or the named party's legal counsel of record entering  
7       into a new litigation financing agreement or amending an  
8       existing litigation financing agreement.

9                   D. Prior to production of a litigation financing  
10      agreement in response to a discovery request, a named party may  
11      request and a court must conduct an in-camera review of the  
12      agreement to determine whether it meets the requirements for a  
13      litigation financing agreement. A party may redact information  
14      that may identify the litigation financier before submitting  
15      the agreement for in-camera review. If the court concludes  
16      that the agreement is a litigation financing agreement, a named  
17      party may obtain discovery of the litigation financing  
18      agreement and all parties to the litigation financing  
19      agreement.

20                  E. The court shall determine sanctions for a party  
21      that fails to make the disclosures required by the Litigation  
22      Financing Transparency Act. An evasive or incomplete  
23      disclosure shall be treated as a failure to make the required  
24      disclosure.

25                  F. The disclosure obligations prescribed by this

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1 section apply to class actions and multidistrict litigation.

2           **SECTION 6.  [NEW MATERIAL] PROTECTION FROM ADVERSE**  
3 DETERMINATIONS.--

4           A.  In a litigation financing agreement, a  
5 litigation financier shall indemnify the funded consumers  
6 against adverse costs, attorney fees, damages or sanctions that  
7 may be ordered or awarded in an action for which a litigation  
8 financier is providing financing for the litigation.

9           B.  Notwithstanding Subsection A of this section,  
10 indemnification is not required for adverse costs, attorney  
11 fees, damages or sanctions that result from the consumer's  
12 intentionally wrongful conduct.

13           **SECTION 7.  [NEW MATERIAL] VIOLATION OF ACT.--**

14           A.  A litigation financing agreement that is entered  
15 into in violation of the Litigation Financing Transparency Act  
16 is void.

17           B.  A litigation financier that violates a section  
18 of the Litigation Financing Transparency Act commits an  
19 unlawful act pursuant to the Unfair Practices Act.

20           **SECTION 8.  APPLICABILITY.--**The Litigation Financing  
21 Transparency Act applies to a civil action, an administrative  
22 proceeding, a claim or a cause of action that is pending or  
23 commenced on or after the effective date of that act.

24           **SECTION 9.  EFFECTIVE DATE.--**The effective date of the  
25 provisions of this act is December 31, 2026.

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