

HOUSE BILL 223

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

INTRODUCED BY

Marian Matthews

AN ACT

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

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

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

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

A. "action" means a civil action, an administrative
proceeding, a claim or other cause of action;

B. "financial institution" means a bank, a trust
company, a savings and loan association, a credit union, a
consumer lender, an international banking facility or a
financial holding company under the jurisdiction of the state
or federal government;

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

2 (1) a citizen of the United States;

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

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

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

12 D. "foreign principal" means:

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

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

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

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

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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

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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

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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