



Testimony of Harrison Hosker
American Legal Finance Association
Opponent Testimony
HB 105
House Insurance Committee
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Chairman Lampton, Vice Chair Craig, Ranking Member Tims and members of the House Insurance Committee, thank you for allowing me to address the committee on HB 105. My name is Harrison Hosker, and I am with the American Legal Finance Association (ALFA.)

By way of introduction, ALFA is the oldest trade association representing the nation's most significant participants in the Consumer Legal Funding industry. One of ALFA's first actions was establishing industry standards for the industry. The cornerstone of these best practices is transactional transparency and clear and concise contractual agreements for consumers. A condition of membership in ALFA is that members must ascribe to the ALFA Best Practices.

ALFA Best Practices include:

- Prohibiting any of the funds being used for the costs of the litigation or attorney fees
- Prohibiting the funding company from being involved in any decisions relating to the litigation
- Prohibiting funding companies from paying any referral fees
- Prohibiting funding companies from using false or misleading advertising and
- Requiring attorney acknowledgment of all funding.

I would briefly like to take some time to discuss the difference between the type of funding members of ALFA provide, Consumer Legal Funding, and a completely different type of funding, Commercial Litigation Funding. First, Commercial Litigation Funding provides funds for the prosecution of litigation by funding the actual cost, including attorneys, fees, discovery, research, depositions, witness fees, and other court costs associated with legal claims. Commercial Litigation Funders often include significant investments, private equity fundings and fundings of this kind can total in the millions of dollars. This practice is distinctly different from the

transactions that the members of ALFA provide. ALFA members provide Consumer Legal Funding, a transaction where a small amount of money, typically around five thousand dollars, is provided to plaintiffs for their personal life needs. Such life needs include rent, car payments, mortgages, groceries, and other financial needs. It is critical for the committee to know that the funds provided by ALFA members are prohibited from being used for any costs, fees, or expenses related to the prosecution of litigation.

ALFA has worked tirelessly across the country to enact common-sense consumer legal funding legislation that protects consumers and allows this vital funding option to remain available. We salute the sponsor and this committee for working to achieve common sense regulation; however, as written today, several problematic provisions prevent us from supporting this legislation.

If enacted as written, HB 105 would effectively end all consumer legal funding in this state and would only further create and foster unfairness in Ohio courtrooms. The rate prescribed in this legislation would make it impossible for consumer legal funding companies to do business in this state. The committee must understand that the financial risk of these transactions is entirely borne by the funding company, and up to 20% of

funding results in no recovery or settlement for substantially less than expected. If the victim loses their case, the consumer owes nothing, and the legal funding company loses all of its money. Proponents of this legislation aim to eliminate this funding option for consumers and know that the maximum rate in this legislation would do just that. Our preference is that there is no rate cap in this legislation; however, if the committee, sponsor, and legislature deem that one is necessary, we have submitted amendments that align with the National Conference of Insurance Legislators (NCOIL) Model Act and neighboring states like Indiana's and Tennessee's consumer legal funding statutes.

ALFA supports including language addressing fraud in this legislation that makes contracts involved with fraudulent claims void ab initio. This is language that ALFA proudly authored and is included in the recently unanimously passed Senate Bill 1104 in New York. Fraud has no place in the pursuit of justice, and we believe this language represents common sense and protects Ohio from bad actors who wish to use this vital financial lifeline as a way to commit fraud and attempt to enrich themselves.

We have other technical changes that we described in detail in the amendments attached to this testimony. These changes address conflicts

of law in the definition of "Consumer" to clarify that the legislation applies to Ohio residents with a pending legal claim in Ohio and clarify to ensure that violations are willful and intentional. These changes provide clarity and certainty of law.

I commend the committee and the sponsor for taking up this issue. Again, if this committee seeks true consumer protection, we encourage you to consider our amendments and adopt legislation that protects consumers. I would again like to thank the committee for allowing me to appear today; ALFA stands ready to assist the committee in enacting sound consumer protection legislation that allows this vital funding option to remain available for victims.