



# OHIO CHAMBER OF COMMERCE

## *BEFORE THE SENATE JUDICIARY COMMITTEE PROPONENT TESTIMONY ON SENATE BILL 10*

### *IMPROVING OHIO'S BUSINESS CLIMATE BY BRINGING TRANSPARENCY TO LITIGATION FINANCING*

Chairman Manning, Vice Chair Reynolds, Ranking Member Hicks-Hudson, and members of the Senate Judiciary Committee, thank you for the opportunity to provide proponent testimony on Senate Bill 10 (SB 10). My name is Kevin Shimp and I am an associate attorney at the law firm Dickinson Wright testifying on behalf of the Ohio Chamber of Commerce.

The Ohio Chamber is the state's leading business advocate. The organization represents over 8,000 companies that do business in Ohio and their mission is to aggressively champion free enterprise, economic competitiveness and growth for the benefit of all Ohioans.

In our efforts to champion economic competitiveness, the Ohio Chamber supports SB 10 because it makes needed reforms to third-party litigation financing in Ohio and helps address an important part of a strong business environment – a stable and predictable civil justice system.

Over recent years, thanks to Ohio's General Assembly, the business climate in the Buckeye State has improved greatly. The legislature has lowered tax burdens, made it easier to start a business, reduced bureaucratic red tape, invested in workforce development programs, and helped spur economic development wins. These steps have resulted in Ohio climbing the CNBC rankings as one of the best states to do business. Ohio is now ranked inside the top 10 moving from 12<sup>th</sup> in 2023 to the 7<sup>th</sup> best state for business in 2024.

However, Ohio ranks near the bottom of the country in our state's legal environment with a recent US Chamber of Commerce survey finding Ohio has the 15<sup>th</sup> worst lawsuit climate in the country. An overly burdensome and costly civil justice system hinders economic development and can be a drain on our economy. In fact, another US Chamber of Commerce study found that civil liability costs every Ohio household more than \$2,500 each year due to higher prices for products we use every day.

Senate Bill 10 takes Ohio's legal climate in the right direction by reforming our litigation

financing laws to bring greater transparency to the practice of third party litigation financing. The most common form of third-party litigation funding occurs when a company specializing in this industry advances money to a plaintiff in a lawsuit before it has concluded in exchange for the right to receive an amount of any potential proceeds. These cash advances are non-recourse meaning the consumer or plaintiff only has to repay the company if they realize any proceeds from the lawsuits. While the consumer is not on the hook for repayment if they lose the lawsuit, these advances are not subject to interest rate caps and other common consumer protections.

The presence of a third-party funder in a lawsuit is problematic in Ohio because there is a lack of transparency since current law does not require any financing agreement to be disclosed to other parties in the litigation. In turn, non-disclosure of financing agreements enables third party litigation financing companies to conceal their involvement in a lawsuit. The existence of this secretive party leads to litigation based upon speculation of who has an interest in a lawsuit rather than all parties having actual knowledge of who is involved in the litigation – which is a bedrock principle of America's civil justice system and hampers the ability of other parties to develop their litigation strategy.

Third-party litigation financing also introduces incentives that prolong litigation and lead to more speculative lawsuits. Despite the non-recourse nature of these advances, third-party funding can create more frivolous litigation since – like any good investor – these companies' diversify their portfolio. This means they are willing to invest a relatively small amount into some lawsuits that may be riskier but could payoff with a hefty return. Similarly, if a plaintiff has engaged a financier, they may be more likely to reject a reasonable settlement offer since they know any proceeds must be shared with the funder.

Senate Bill 10 begins to address the issues raised by third-party litigation financing and will prove beneficial to Ohio's business and legal climates. First, the disclosure of financing agreements will remove the secretive party in the litigation. This simple step creates parity in litigation since insurance agreements – which often dictate the value of a claim – are automatically disclosed during discovery. Moreover, creating greater transparency about who has an interest in the outcome of a particular lawsuit aids the ability of all parties to develop litigation strategy and helps evaluate what a claim is worth.

In closing, the Ohio Chamber urges your support of Senate Bill 10 because it brings greater transparency to litigation financing in Ohio. That transparency is important because it will bolster the business and legal climates in the Buckeye State by promoting a common-sense civil justice system that balances the interests of all parties in litigation.

Thank you for the opportunity to provide testimony today, and I welcome any questions from the committee.