

February 24, 2025

RE: SUPPORT for SB 10, Revise non-recourse litigation funding agreement regulations

Chair Manning & Members of the Senate Judiciary Committee,

Representing nearly 70 percent of the U.S. property casualty insurance market, the American Property Casualty Insurance Association (APCIA) promotes and protects the viability of private competition for the benefit of consumers and insurers. APCIA represents the broadest cross-section of home, auto, and business insurers of any national trade association. In Ohio, APCIA's members write more than \$15.8 billion in property and casualty insurance premiums. We respectfully submit the following comments in **SUPPORT of SB 10**.

Lawsuits are increasingly being viewed as investment vehicles, degrading and commoditizing our civil justice system. Third-party litigation financing (TPLF) is when an investor finances a lawsuit or medical services related to a liability claim in which the investor has no personal stake, in exchange for a portion of the proceeds of the legal proceeding, often significantly diminishing the recovery of the litigant. To ensure a high rate of return on its investment, the funder seeks to increase the likelihood of trial, thus enhancing the possibility of frivolous and misguided litigation. By turning the civil justice system into a money-making machine, TPLF discourages amicable settlement of disputes and encourages aggressive and prolonged litigation of marginal or frivolous claims.

Further adding complications is the opaque nature of TPLF. These third-party funding agreements are not disclosed to defendants and courts, so they are unaware of the presence or identity of funders despite being real parties of interest. Among the largest players in the TPLF space, VLSI Technology, LLC, owned by Fortress Investment Group, acknowledged in patent litigation proceedings in Delaware that at least some of their investors are unknown, undisclosed foreign sovereign nation funds.¹ The opaque nature of TPLF has made it a haven for foreign investment, including by even those facing US Sanctions, like Russian billionaires². This is of great concern to Ohio's business community as the latest trends indicate intellectual property litigation is a growing target for investment with 29% of all new TPLF commitments focused on intellectual property in 2021.³ Beyond business interests, we are beginning to see the serious national security concerns with this practice as it is well known foreign nations are investing in these enterprises. A recent report examining this, *A New Threat: The National Security Risk of Third Party Litigation Funding*, can be

¹ <https://www.wsj.com/articles/patent-lawsuits-are-a-national-security-threat-secretly-funded-litigation-f3cd5bd4>

² <https://news.bloomberglaw.com/litigation-finance/putins-billionaires-sidestep-sanctions-by-financing-lawsuits>

³ <https://patentlyo.com/patent/2023/02/litigation-disclosure-executive.html>

found at <https://instituteforlegalreform.com/research/ilr-briefly-a-new-threat-the-national-security-risk-of-third-party-litigation-funding/> .

SB 10 will provide some common-sense guardrails to TPLF in Ohio to facilitate transparency, protect consumers, prevent conflicts of interest, and protect our judicial system from foreign interference. These guardrails include disclosure requirements, consumer protections, and a ban on foreign investment. West Virginia, Wisconsin, Indiana, and Montana have statutory laws requiring disclosure and discovery to the parties, and similar disclosure legislation is pending elsewhere. Further, Indiana, Louisiana and Montana have begun taking steps to protect their courts from foreign investment. Courts have also begun to require disclosure via local rules and standing orders, including the US District Courts in Delaware, New Jersey, and the North District of California. Now is the time to act to prevent this hidden money from distorting our civil justice system in Ohio.

We appreciate the opportunity to express our support and urge the committee to vote “**YES**” on **SB 10**. Please feel to contact me or APCIA’s local counsel Steve Buehrer if we can answer any questions or be of assistance.

Respectfully,

Joe Roth
Assistant Vice President, State Government Relations
American Property Casualty Insurance Association