

Testimony to the Senate Judiciary Committee on Senate Bill 94

March 1, 2022

Good afternoon Chair Manning and members of the Committee. Thank you for allowing me to provide remarks on this bill and your thoughtfulness on this issue. My name is Gary Barnett and I am the Executive Director and General Counsel at the International Legal Finance Association (“ILFA”). ILFA represents the commercial legal finance industry, which is entirely separate and distinct from consumer litigation funding.

I believe the legislation under consideration today is well-intentioned. However, as currently constituted, it is an unnecessary and overbroad. It will unfortunately adversely affect Ohio businesses and law firms by restricting their access to legal finance, which just like other types of finance, empowers businesses to invest in growth and hire more employees.

Many of the concerns I have heard surrounding this legislation do not apply to commercial legal finance, which is a market-based solution to meet the needs of companies engaged in litigation domestically and around the world. Our members are passive outside investors who have no control over the outcome of the litigation. These transactions are typically in the form of multimillion-dollar nonrecourse investments involving businesses ranging from startups to Fortune 100 companies, as well as law firms of all types and sizes.

A key distinction to keep in mind is that commercial funders make investments, not loans. There is no debt obligation, and therefore, clients who use legal finance do not have ongoing principal or interest payments. ILFA’s members help businesses mitigate risk by providing needed financing. We finance significant commercial matters between businesses on both sides of litigation. The financing provided by ILFA members allows businesses, large and small, to maintain the necessary capital to invest in their growth—driving economic development and job creation in local communities.

In a free market economy, parties are at liberty to contract and should be free to do so without being forced to disclose their confidential financial arrangements—particularly to an adversary in litigation. ILFA does not have a blanket objection to tort reform—we are not in the tort business. However, the proposal under consideration today is not tort reform. It is an overbroad regulation

that will prevent Ohio businesses and law firms from obtaining financing if, and when, they determine it is advantageous to them from a business perspective.

Thank you again for your time and for allowing me to participate today. I am happy to answer questions at the appropriate time.