



Testimony before Senate Committee on Judiciary
SB 74 Relating to litigation funding by 3rd parties
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Opposition to SB 74 as drafted

Madam Chair and members of the Committee

Thank you for the opportunity to appear today on SB 74. I'm here on behalf of The Alliance for Responsible Consumer Legal Funding (ARC).

The Alliance for Responsible Consumer Legal Funding (ARC) is a Trade Association that represents companies that provide financial assistance to consumers who have a pending legal claim, such as a car accident., e.g. The money that is provided to them is to be used solely for household needs, such as making mortgage payments, car payments, keeping the lights on, etc., while their claim is making its way through the legal process.

The average amount provided a consumer is \$2,000.

None of the money that is provided to a consumer can be used to pay for litigation-related expenses. In fact, in other states where ARC has sponsored legislation, they specifically provide that the funds cannot be used to fund litigation expenses. This sets us apart from the 3rd party litigation funding companies that we understand are the intended subjects of this proposed legislation.

ARC is not opposed to regulation of the industry; in fact, they welcome it. They do have concerns with this legislation as currently drafted, however, and would like to work with the proponents and the Committee to come up with mutually acceptable language.

It is our understanding that the purpose of this legislation it to address the companies or industries that provide funds to pay for the litigation and pay for the associated litigation costs. ARC does not oppose this objective, but does oppose language that is overly broad and which encompasses their consumer product.



As was stated earlier, the average amount that ARC members provide a consumer is \$2,000. If any of you have been involved in any sort of litigation you know that \$2,000 will not cover even a small portion of the needed amount to bring a case forward. That is why ARC believes that they are not the industry targeted in this piece of legislation. They would be, however, an unintended victim of it.

New Section 1 contains overly broad language that would, without an appropriate limiting amendment, subject ARC and other strictly consumer lenders in the same category, to potential liability for costs and other sanctions.

New Section 2(b)(3)(B), Third-Party Agreements, also contains overbroad language that would affect ARC members and others similarly situated.

It is our understanding that this section is designed to discover, or disclose, if an outside entity is financing the actual litigation and associated costs of bringing that litigation forward.

That is not what these consumer lenders do. None of the funds they provide a consumer are used to cover court costs or any associated costs of bringing that litigation. The funds they provide consumers are used for strictly non-litigation related needs, such as paying the mortgage, paying the electric bills and paying other household needs.

By including their non-litigation funding product, the bill puts the consumer at a disadvantage by labelling the consumer as financially stressed and having to seek help to pay their family bills. Why single out this one form of consumer lending when other forms of consumer lending would not be covered?

We appreciate the Kansas Chamber's willingness to work with us on language that will accomplish their intent while exempting our non-litigation funding consumer product. This can be accomplished by clarifying in New Section 1 and Sec. 2(b)(3)(B) what litigation financing is, and more importantly, what it isn't. It should not include funding provided to a consumer for purposes other than funding litigation-related expenses. We look forward to working with the Chamber and your Revisor to arrive at a mutually satisfactory amendment. With that we would be neutral on the bill.

Thank you for your time and consideration and am I would be happy to address any of your questions.