

Amendment to HB 1384

1 Amend the title of the bill by replacing it with the following:

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3 AN ACT relative to prohibiting foreign adversary persons or foreign entities of concern from  
4 financing lawsuits.

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6 Amend the bill by replacing all after the enacting clause with the following:

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8 1 New Chapter; New Hampshire Third-Party Litigation Funding Transparency Act. Amend  
9 RSA by inserting after chapter 294-E the following new chapter:

10

CHAPTER 294-F

11

NEW HAMPSHIRE THIRD-PARTY LITIGATION FUNDING TRANSPARENCY ACT

12

294-F:1 Definitions. In this chapter:

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14 I. "Commercial litigation financier" means a person in the business of entering into  
15 commercial litigation financing agreements or lawyer financing agreements. The term "commercial  
16 litigation financier" shall not include a nonprofit organization exempt from federal income tax under  
17 501(c)(3) of the United States Internal Revenue Code or its funders if the nonprofit organization  
18 represents the claimant on a pro bono basis, which may include an award of costs or attorney fees to  
the nonprofit organization or a related attorney.

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20 II. "Consumer legal funding agreement" means a non-recourse transaction in which a  
21 consumer litigation funding company purchases, and a consumer assigns to the company, a  
22 contingent right to receive an amount of the potential proceeds of a settlement, judgment, award, or  
verdict obtained in the consumer's legal claim.

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24 III. "Commercial litigation financing agreement" means, with respect to any civil action or  
group of civil actions, a written agreement:

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(a) Whereby a third party agrees to provide funds to one of the named parties, and

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27 (b) Which creates a direct or collateralized interest in the proceeds of a civil action or  
28 group of civil actions, by settlement, verdict, judgment, or otherwise, where such interest is based in  
whole or in part on a funding obligation to the funded party in the action or group of actions.

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30 (1) "Commercial litigation financing agreement" shall include any contract, including  
31 any option, forward contract, futures contract, short position, swap, or similar contract, or other  
agreement that is substantially similar to a litigation financing agreement.

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(2) "Commercial litigation financing agreement" shall not include:

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1 (A) A consumer legal funding agreement;

2 (B) An agreement by an attorney or law firm to provide legal services on a  
3 contingency fee basis to the claimant or to advance the claimant's legal costs in accordance with the  
4 New Hampshire rules of professional conduct;

5 (C) A health insurer, medical provider, or assignee that has paid, is obligated to  
6 pay, or is owed any sums for a person's health care under the terms of a health insurance plan or  
7 agreement;

8 (D) A financial institution providing loans to the claimant or the claimant's  
9 attorney or law firm when repayment is not contingent upon the outcome of the legal claim or on the  
10 outcome of any matter within a portfolio that includes the legal claim and involves the same  
11 attorney or law firm or affiliated attorney or law firm;

12 (E) A lawyer financing agreement; or

13 (F) A person with a preexisting contractual obligation to indemnify or defend a  
14 party to a legal claim.

15 IV. "Foreign country of concern" means a foreign government or person listed as a "foreign  
16 adversary" under 15 C.F.R. 791.4.

17 V. "Foreign entity of concern" or "foreign person of concern" means an entity or person that:

18 (a) Is organized or incorporated in a foreign country of concern;

19 (b) Is owned or controlled by the government, a political subdivision, or a political party  
20 of a foreign country of concern;

21 (c) Has its principal place of business in a foreign country of concern; or

22 (d) Is owned, organized, or controlled by, affiliated with, or acting on behalf of an  
23 individual or entity that is or has been:

24 (1) On a sanctions list maintained by the Office of Foreign Assets Control, including:

25 (A) Specially Designated Nationals and Blocked Persons List (SDN List);

26 (B) Foreign Sanctions Evaders List;

27 (C) Non-SDN Iran Sanctions Act List;

28 (D) Sectoral Sanctions Identifications List; or

29 (E) List of Foreign Financial Institutions Subject to Correspondent Account and  
30 Payable-Through Account Sanctions; or

31 (2) Designated by the United States Secretary of State as a foreign terrorist  
32 organization.

33 294-F:2 Prohibitions Related to Commercial Litigation Funding. No person or entity shall enter  
34 into a commercial litigation financing agreement with a foreign entity of concern or a foreign country  
35 or person of concern, or any entity controlled by any of the foregoing persons or entities.

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1           294-F:3   Applicability.   This chapter shall apply to any commercial litigation financing  
2 agreement or lawyer financing agreement that is effectuated on or after the effective date of this  
3 chapter.

4           2   Effective Date.   This act shall take effect January 1, 2027.

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AMENDED ANALYSIS

This bill prohibits foreign adversary persons or foreign entities of concern from financing lawsuits.