SB 209-FN - AS AMENDED BY THE HOUSE

5Jun2025... 2275h
5Jun2025... 2701h

2025 SESSION

25-1100
02/09

SENATE BILL ***209-FN***

AN ACT relative to owner's project managers for projects funded by school building aid and relative to reporting requirements for persons or entities financing lawsuits.

SPONSORS: Sen. Abbas, Dist 22; Rep. Doucette, Rock. 25; Rep. Janigian, Rock. 25; Rep. D. Mannion, Rock. 25

COMMITTEE: Education

AMENDED ANALYSIS

This bill:

I. Modifies the requirements for the use of owner's project managers for projects funded by school building aid.

II. Regulates consumer litigation finance agreements and makes violations of the chapter a violation of the New Hampshire consumer protection act.

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Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Five

AN ACT relative to owner's project managers for projects funded by school building aid and relative to reporting requirements for persons or entities financing lawsuits.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 School Building Aid; Approval of Plans; Specifications, and Costs of Construction or Purchase. Amend RSA 198:15-c, III to read as follows:

III. A school district or chartered public school that accepts school building aid for construction shall engage the services of an owner's project manager for construction or reconstruction***/renovation*** projects of [~~$1,000,000~~] ***$1,250,000*** or more, unless the commissioner waives such requirement as unnecessary. The owner's project manager shall have his or her own comprehensive liability and auto insurance, worker's compensation coverage, and professional liability coverage. The state board of education shall adopt rules pursuant to RSA 541-A relative to the required services, responsibilities, and qualifications for the owner's project manager ***to ensure the project owner's best interests are carried out***.

2 Purpose and Findings. The purpose of section 3 of this act is to promote consumer protections related to commercial litigation funding transactions. Section 3 of this act establishes requirements regarding disclosure, funding company and attorney responsibilities and limitations, violations, and other items.

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

CHAPTER 294-F

NEW HAMPSHIRE THIRD-PARTY LITIGATION FUNDING TRANSPARENCY ACT

294-F:1 Short Title. This chapter shall be known, and may be cited as, the "Third-Party Litigation Funding Transparency Act."

294-F:2 Definitions. In this chapter:

I. "Commercial litigation financier" means a person in the business of entering into commercial litigation financing agreements with claimants or with lawyers or law firms asserting legal claims on behalf of claimants. The term commercial litigation financier does not include a nonprofit organization exempt from federal income tax under 501(c)(3) of the United States Internal Revenue Code or its funders if the nonprofit organization 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.

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

(a) Whereby a third party agrees to provide funds to one of the named parties or any law firm affiliated with the action or group of civil actions, and

(b) Which creates a direct or collateralized interest in the proceeds of a civil action or group of civil actions, by settlement, verdict, judgment, or otherwise, and whose interest is based in whole or part on a funding-based obligation to the action or group of actions or the appearing counsel or any contractual co-counsel or the law firm(s) of the counsel or co-counsel executed with:

(1) Any attorney representing a party;

(2) Any co-counsel in the litigation with a contingent fee interest in the representation of that party; or

(3) Any third-party who has a collateral-based interest in the contingency fees of the counsel or co-counsel firm related in whole or part to the fees derived from representing that party.

(c) "Commercial litigation financing agreement" includes any contract, including any option, forward contract, futures contract, short position, swap, or similar contract, or other agreement that is substantially similar to a litigation financing agreement.

(d) "Commercial litigation financing agreement" does not include:

(1) A consumer legal funding agreement;

(2) An agreement by an attorney or law firm to provide legal services on a contingency fee basis to the claimant or to advance the claimant's legal costs in accordance with the American Bar Association's Model Rules of Professional Conduct;

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

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

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

III. "Consumer" means a natural person or estate for a decedent with a legal claim.

IV. "Consumer legal funding" means a nonrecourse transaction in which a consumer legal funding company purchases, and a consumer assigns to the company, a contingent right to receive an amount of the potential proceeds of a settlement, judgment, award, or verdict obtained in the consumer's legal claim.

V. "Foreign country or person of concern" means a foreign government or person listed in section 15 CFR 791.4 of the code of federal regulations.

VI. "Foreign entity of concern" means an entity that:

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

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

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

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

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

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

(B) Foreign Sanctions Evaders List;

(C) Non-SDN Iran Sanctions Act List;

(D) Sectoral Sanctions Identifications List; or

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

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

VII. "Legal claim" means a civil claim or cause of action.

294-F:3 Prohibitions Related to Commercial Litigation Funding. A commercial litigation financier shall not enter into a commercial litigation financing agreement directly or indirectly with a foreign entity of concern or a foreign country or person of concern.

294-F:4 Commercial Litigation Financing Agreement Disclosure and Discovery.

I. Except as otherwise stipulated or ordered by the court, a claimant or the claimant's attorney shall, without awaiting a discovery request, provide to all parties in a pending civil action any commercial litigation financing agreement at the time a civil action is asserted and any time thereafter that a commercial litigation financing agreement is executed or amended. An insurer that has or may have a duty to defend or indemnify a party to a civil action shall be provided with the commercial litigation financing agreement or any modifications or amendments to the agreement.

II. Commercial litigation financing agreements and all participants or parties to such agreements are permissible subjects of discovery in a legal claim.

294-F:5 Applicability.

I. This chapter shall apply to any commercial litigation financing agreement that is effectuated on or after the effective date of this chapter.

II. If any provision of this chapter is, for any reason, declared unconstitutional or invalid, in whole or in part by any court of competent jurisdiction, such portion shall be deemed severable and shall not affect the validity of the remaining portions of this chapter, which shall remain in full force and effect.

4 Effective Date.

I. Section 1 of this act shall take effect 60 days after its passage.

II. The remainder of this act shall take effect January 1, 2026.

LBA
25-1100
1/13/25

SB 209-FN- FISCAL NOTE
AS INTRODUCED

AN ACT requiring schools to engage an owner's project manager for construction of school building aid projects at the time of application.

FISCAL IMPACT:

Estimated Political Subdivision Impact				
	FY 2025	**FY 2026**	**FY 2027**	**FY 2028**
Local Revenue	$0	$0	$0	$0
Local Expenditures	$0	Indeterminable		

METHODOLOGY:

This bill changes the time when a school district or chartered public school must retain the services of an owner's project manager (OPM) for the purposes of applying for a school building aid grant. Currently, OPMs are only required to be retained for a building aid applicant to receive an award. This bill would require applicants to retain the services of an OPM prior to submitting a building aid application. At the time of application submittal, there is no guarantee that appropriation will be available or that applicants will receive an award. Any impact that this bill may have on local school districts applying for school building aid is indeterminable. For informational purposes, the Department of Education states that the services for an OPM generally run at 1% to 5% of the total project cost.

AGENCIES CONTACTED:

Department of Education