

Floor Amendment to SB 209-FN

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

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

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6 Amend the bill by replacing all after section 1 with the following:

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8 2 Purpose and Findings. The purpose of section 3 of this act is to promote consumer protections
9 related to commercial litigation funding transactions. Section 3 of this act establishes requirements
10 regarding disclosure, funding company and attorney responsibilities and limitations, violations, and
11 other items.

12 3 New Chapter; New Hampshire Third-Party Litigation Funding Transparency Act. Amend
13 RSA by inserting after chapter 294-E the following new chapter:

14

CHAPTER 294-F

15

NEW HAMPSHIRE THIRD-PARTY LITIGATION FUNDING TRANSPARENCY ACT

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17 294-F:1 Short Title. This chapter shall be known, and may be cited as, the "Third-Party
18 Litigation Funding Transparency Act."

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294-F:2 Definitions. In this chapter:

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20 I. "Commercial litigation financier" means a person in the business of entering into
21 commercial litigation financing agreements with claimants or with lawyers or law firms asserting
22 legal claims on behalf of claimants. The term commercial litigation financier does not include a
23 nonprofit organization exempt from federal income tax under 501(c)(3) of the United States Internal
24 Revenue Code or its funders if the nonprofit organization represents the claimant on a pro bono
25 basis, which may include an award of costs or attorney fees to the nonprofit organization or a related
26 attorney.

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

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

30

31 (b) Which creates a direct or collateralized interest in the proceeds of a civil action or
32 group of civil actions, by settlement, verdict, judgment, or otherwise, and whose interest is based in

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1 whole or part on a funding-based obligation to the action or group of actions or the appearing counsel
2 or any contractual co-counsel or the law firm(s) of the counsel or co-counsel executed with:

3 (1) Any attorney representing a party;

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

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

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

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

12 (1) A consumer legal funding agreement;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 (B) Foreign Sanctions Evaders List;

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

8 (D) Sectoral Sanctions Identifications List; or

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

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

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

14 294-F:3 Prohibitions Related to Commercial Litigation Funding. A commercial litigation
15 financier shall not enter into a commercial litigation financing agreement directly or indirectly with
16 a foreign entity of concern or a foreign country or person of concern.

17 294-F:4 Commercial Litigation Financing Agreement Disclosure and Discovery.

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

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

27 294-F:5 Applicability.

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

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

34 4 Effective Date.

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

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

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2025-2701h

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.