

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

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

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III. "Commercial litigation financing agreement" means, with respect to any civil action or
24 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 or any law
26 firm affiliated with the action or group of actions; and

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(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
29 whole or in part on a funding obligation to the funded party in the action or group of actions.

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(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
32 agreement that is substantially similar to a litigation financing agreement.

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

2 (A) A consumer legal funding agreement;

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

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

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

13 (E) 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, or into an agreement funded directly or
35 indirectly, in whole or in part, by a foreign entity of concern or a foreign country or person of concern,
36 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 that is effectuated on or after the effective date of this chapter.
- 3 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.