



Rep. André M. Thapedi

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1 AMENDMENT TO HOUSE BILL 531

2 AMENDMENT NO. _____. Amend House Bill 531 by replacing
3 everything after the enacting clause with the following:

4 "Section 1-1. Short title. This Act may be cited as the
5 Non-Recourse Consumer Lawsuit Funding Act.

6 Section 1-5. Definitions. In this Act:

7 "Non-recourse consumer lawsuit funding company" means a
8 person or entity that enters into a non-recourse consumer
9 lawsuit funding transaction with a consumer. "Non-recourse
10 consumer lawsuit funding company" includes any affiliate or
11 subsidiary of a non-recourse consumer lawsuit funding company;
12 an entity or person who buys a whole or partial interest in a
13 non-recourse consumer lawsuit funding, acts as an agent to
14 provide non-recourse consumer lawsuit funding from a third
15 party for a fee, or acts as an agent for a third party in
16 providing non-recourse consumer lawsuit funding for a fee,

1 regardless of whether approval or acceptance by the third party
2 is necessary to create a legal obligation for the third party;
3 and any other person or entity if the Department determines
4 that the person or entity is engaged in a transaction that is
5 in substance a disguised non-recourse consumer lawsuit funding
6 or a subterfuge for the purpose of avoiding this Act.
7 Notwithstanding anything to the contrary contained in this Act,
8 a bank, lender, financing entity, or any other special purpose
9 entity that provides financing to a non-recourse consumer
10 lawsuit funding company or to which a non-recourse consumer
11 lawsuit funding company grants a security interest or transfers
12 any rights or interest in non-recourse consumer lawsuit funding
13 shall not cause the bank, lender, financing entity, or special
14 purpose entity to be deemed a non-recourse consumer lawsuit
15 funding company. Notwithstanding anything to the contrary
16 contained in this Act, an attorney or accountant who provides
17 services to a consumer shall not be deemed a non-recourse
18 consumer lawsuit funding company.

19 "Consumer" means a natural person residing or domiciled in
20 Illinois or who elects to enter into a transaction under this
21 Act in Illinois, whether it be in-person, over the internet, by
22 facsimile, or any other electronic means, and who has a pending
23 legal claim and is represented by an attorney at the time he or
24 she enters into a contract for non-recourse consumer lawsuit
25 funding.

26 "Contract" means a written agreement between a consumer and

1 a non-recourse consumer lawsuit funding company that the
2 non-recourse consumer lawsuit funding company agrees to
3 provide non-recourse consumer lawsuit funding to the consumer
4 in compliance with Article 2.

5 "Department" means the Illinois Department of Financial
6 and Professional Regulation.

7 "Funding amount" means the dollar amount of funds provided
8 to the consumer by the non-recourse consumer lawsuit funding
9 company subsequent to the execution of the contract as
10 consideration for the assignment of or purchase of a contingent
11 right to receive a portion of the proceeds of the legal claim.

12 "Funding date" means the date on which the funding amount
13 is paid to the consumer by the non-recourse consumer lawsuit
14 funding company.

15 "Legal claim" means a civil or statutory claim or action.

16 "Licensee" means any non-recourse consumer lawsuit funding
17 company licensed in accordance with Article 3.

18 "Non-recourse consumer lawsuit funding" means a
19 transaction of any amount in which a non-recourse consumer
20 lawsuit funding company purchases and a consumer assigns to the
21 non-recourse consumer lawsuit funding company the contingent
22 right to receive a portion of the potential proceeds of a
23 settlement, judgment, award, or verdict obtained in the
24 consumer's legal claim.

25 "Proceeds" means those funds available for payment to the
26 non-recourse consumer lawsuit funding company that are

1 remaining from any settlement, verdict, final judgment,
2 insurance payment, or award obtained in the consumer's legal
3 claim after reductions are made under Section 2-15 of this Act.

4 "Resolution date" means the date the funding amount plus
5 the agreed upon fees from the legal claim are received by the
6 non-recourse consumer lawsuit funding company.

7 "Secretary" means the Illinois Secretary of Financial and
8 Professional Regulation.

9 Article 2. Non-Recourse Consumer Lawsuit Funding

10 Section 2-5. Contract provisions. All contracts for
11 non-recourse consumer lawsuit funding shall be in writing and
12 comply with all of the following requirements:

13 (1) The contract shall contain on the front page,
14 appropriately headed and in at least 12-point, bold face type,
15 a chart that clearly contains the following disclosures:

16 (A) the total funding amount paid to the consumer;

17 (B) an itemization of one-time fees;

18 (C) the total dollar amount owed by the consumer to the
19 non-recourse consumer lawsuit funding company, set forth
20 up to 1,080 days beginning at the 11th business day after
21 the funding date, then at 30 days after the funding date
22 and at every 30 days thereafter; the total dollar amount
23 shall be calculated using the identical methodology used by
24 the non-recourse consumer lawsuit funding company to

1 calculate the contracted fee amount under Section 2-10.

2 The Secretary shall prescribe by rule the format of the
3 chart that clearly discloses to the consumer all the
4 information in this subsection. Until the Secretary makes such
5 a rule, each non-recourse consumer lawsuit funding company must
6 have a chart format approved for distribution by the Secretary.

7 No contract for non-recourse consumer lawsuit funding
8 shall be enforceable against the consumer unless it complies
9 entirely with this subsection.

10 (2) The contract shall provide that the consumer may cancel
11 the contract within 10 business days following the consumer's
12 receipt of the funding amount, without penalty or further
13 obligation. The contract shall contain the following notice
14 written in at least 12-point, bold face type:

15 "Consumer's right to cancellation: You may cancel this
16 contract without penalty or further obligation within 10
17 business days after the funding date.".

18 The contract must also specify that in order for the
19 cancellation to be effective, the consumer must either return
20 to the non-recourse consumer lawsuit funding company the total
21 amount of the funding amount by (a) delivering the non-recourse
22 consumer lawsuit funding company's uncashed check to the
23 non-recourse consumer lawsuit company's offices in person
24 within 10 business days after receipt of the funding amount,
25 (b) sending a notice of cancellation via registered or
26 certified mail and include in the mailing a return of the total

1 amount of funding amount in the form of the non-recourse
2 consumer lawsuit funding company's uncashed check within 10
3 business days after receipt of the funding amount, or (c)
4 sending a registered, certified or cashier's check or money
5 order, by insured, registered, or certified United States mail,
6 postmarked within 10 business days after receipt of the funding
7 amount, to the address specified in the contract for
8 cancellation.

9 (3) The contract shall contain all of the following
10 statements in at least 12-point, bold face type:

11 "(A) [Insert name of the non-recourse consumer lawsuit
12 funding company] agrees that it shall have no right to and
13 will not make any decisions with respect to the conduct of
14 the legal claim or any settlement or resolution thereof and
15 that the right to make those decisions remains solely with
16 you and your attorney in the legal claim. [Insert name of
17 the non-recourse consumer lawsuit funding company] further
18 agrees that it shall have no right to pursue the legal
19 claim on your behalf.

20 (B) [Insert name of the non-recourse consumer lawsuit
21 funding company] agrees that it shall only accept: (i) an
22 assignment of a contingent right to receive a portion of
23 the potential proceeds; (ii) the contracted return of the
24 funding amount; and (iii) any agreed upon fees. Any agreed
25 upon fees to [insert name of the non-recourse consumer
26 lawsuit funding company] shall not be determined as a

1 percentage of your recovery from the legal claim but shall
2 be set as a contractually determined amount based upon
3 intervals of time from the funding date through the
4 resolution date. [Insert name of the non-recourse consumer
5 lawsuit funding company] is not accepting an assignment of
6 your legal claim.

7 (C) [Insert name of the non-recourse consumer lawsuit
8 funding company] agrees that you may make payments on a
9 funding at any time without additional cost or penalty.

10 (D) [Insert name of the non-recourse consumer lawsuit
11 funding company] is not a law firm and is prohibited from
12 rendering legal advice. Advice about the conduct of the
13 legal claim or any settlement or resolution shall be
14 directed to a properly licensed attorney."

15 (4) All contracts with the consumer must contain the
16 following statement, in plain language in a box with 15-point,
17 bold face type, in all capitalized letters, stating the
18 following:

19 "THE FUNDING AMOUNT AND AGREED UPON FEES SHALL ONLY BE PAID
20 FROM THE PROCEEDS OF YOUR LEGAL CLAIM AND SHALL ONLY BE
21 PAID TO THE EXTENT THAT THERE ARE AVAILABLE PROCEEDS FROM
22 YOUR LEGAL CLAIM. YOU WILL NOT OWE [INSERT NAME OF THE
23 NON-RECOURSE CONSUMER LAWSUIT FUNDING COMPANY] ANYTHING IF
24 THERE ARE NO PROCEEDS FROM YOUR LEGAL CLAIM."

25 (5) The contract shall contain the following statement in
26 at least 12-point, bold face type located immediately above the

1 space where the consumer's signature is required:

2 "Do not sign this Agreement before you read it completely
3 or if it contains any blank spaces. You are entitled to a
4 completely filled-in copy of this Agreement. Before you
5 sign this Agreement you should obtain the advice of an
6 attorney. Depending on the circumstances, you may want to
7 consult a tax, public, or private benefit planning or
8 financial professional. You acknowledge that your attorney
9 in the legal claim has provided no tax, public, or private
10 benefit planning regarding this transaction. You further
11 understand and agree that the funds you receive from
12 [insert name of the non-recourse consumer lawsuit funding
13 company] shall not be used to pay for or applied to the
14 payment of attorney's fees or litigation costs related to
15 your legal claim."

16 (6) The executed contract shall contain a written
17 acknowledgment by the consumer that he or she has reviewed the
18 contract in its entirety.

19 (7) The non-recourse consumer lawsuit funding company
20 shall provide the consumer's attorney with a written
21 notification of the non-recourse consumer lawsuit funding
22 provided to the consumer 3 business days before the funding
23 date by way of postal mail, courier service, facsimile, e-mail
24 return receipt acknowledged, or other means of proof of
25 delivery method unless there is a written acknowledgment by the
26 attorney representing the consumer in the legal claim as to the

1 terms of the contract. Notwithstanding notice of the
2 non-recourse consumer lawsuit funding, the consumer's attorney
3 is not responsible for paying or ensuring payment of the
4 consumer's obligation.

5 (8) The contracted return of the funding amount, plus any
6 agreed upon fees assigned to the non-recourse consumer lawsuit
7 funding company on the resolution date shall not be determined
8 as a percentage of the recovery from the legal claim but shall
9 be set as a contractually determined amount based upon
10 intervals of time from the funding date through the resolution
11 date.

12 Section 2-10. Contracted fee amount.

13 (a) The non-recourse consumer lawsuit funding company
14 shall offer the consumer the option of either entering into a
15 conventional loan under the Consumer Installment Loan Act or
16 entering into non-recourse consumer lawsuit funding.

17 If the consumer elects to enter into a conventional loan
18 agreement under the Consumer Installment Loan Act, the interest
19 charged shall not exceed an annual percentage rate of 36%.

20 If the consumer elects to enter into non-recourse consumer
21 lawsuit funding, the company shall not charge a fee in excess
22 of 36% annual percentage rate plus a deferment fee not to
23 exceed 1.5% for each month the funding is outstanding with
24 compounding to occur no more often than bi-monthly.

25 (b) No additional fees shall be applied for any period of

1 time beyond 1080 days from the funding date.

2 (c) Except for the fees set forth in this Section and
3 Section 20, the non-recourse consumer lawsuit funding company
4 shall not impose on a consumer any additional finance charges,
5 interest, fees, or charges of any sort for any purpose.

6 (d) Under no circumstances shall the total amount of
7 finance charges, interest, fees, or any other charges, when
8 taken together, exceed the award to the consumer.

9 Section 2-12. Charges permitted.

10 (a) A licensee may charge an acquisition charge not to
11 exceed 8% of the amount funded or \$100, whichever is less.

12 (b) A licensee may charge an expedited funds delivery
13 option charge not to exceed the actual cost of delivery or \$20,
14 whichever is less. Expedited funds delivery options,
15 including, but not limited to, overnight delivery, electronic
16 fund transfers, and Automated Clearing House (ACH)
17 transactions may be offered to the consumer as a choice of the
18 method of the delivery of funds. The fund delivery charge is
19 fully earned at the time that each funding transaction is made
20 and shall not be subject to refund. Details and receipts of
21 delivery shall be provided in an invoice to the consumer no
22 more than 10 business days after the funding date. A no-charge
23 delivery option must be offered to the consumer as a choice.

24 Section 2-15. Claim priorities. Any lien arising out of the

1 underlying consumer's legal claim for subrogation claims,
2 attorney fees, attorney liens, and litigation costs, health
3 care providers, employers in worker's compensation
4 proceedings, health insurers, employers with self-funded
5 health care plans, Medicare, and Public Aid shall be satisfied
6 before and take priority over any claim of the non-recourse
7 consumer lawsuit funding company. All other holders of liens,
8 security interests, or subrogation claims shall take priority
9 over the non-recourse consumer lawsuit funding company to the
10 extent allowed by law.

11 Section 2-20. Standards and practices. Each non-recourse
12 consumer lawsuit funding company shall adhere to the following:

13 (1) The non-recourse consumer lawsuit funding company
14 shall not pay or offer to pay any compensation to any attorney,
15 law firm, medical provider, chiropractor, physical therapist,
16 or any of their employees for referring a consumer to the
17 non-recourse consumer lawsuit funding company. The
18 non-recourse consumer lawsuit funding company agrees not to
19 accept any compensation from any attorney, law firm, medical
20 provider, chiropractor, physical therapist, or any of their
21 employees, other than the funding amount and any agreed upon
22 fees the consumer assigned to the non-recourse consumer lawsuit
23 funding company out of the potential proceeds of the legal
24 claim. If a lawyer or law firm represents one or more consumers
25 with outstanding non-recourse consumer lawsuit fundings from

1 the same non-recourse consumer lawsuit funding company, that
2 non-recourse consumer lawsuit funding company may not provide
3 any type of funding to the lawyer or law firm.

4 (2) The non-recourse consumer lawsuit funding company
5 shall not advertise false or intentionally misleading
6 information regarding its product or services.

7 (3) The non-recourse consumer lawsuit funding company
8 shall not knowingly provide funding to a consumer who has
9 previously sold and assigned an amount of the potential
10 proceeds of his or her legal claim to another non-recourse
11 consumer lawsuit funding company without first purchasing that
12 non-recourse consumer lawsuit funding company's entire accrued
13 balance unless otherwise agreed to in writing by the consumer
14 and all non-recourse consumer lawsuit funding companies that
15 provided non-recourse consumer lawsuit funding to the
16 consumer.

17 (4) The non-recourse consumer lawsuit funding company
18 shall not offer single premium credit life, disability, or
19 unemployment insurance that will be financed through a
20 non-recourse consumer lawsuit funding transaction.

21 (5) For non-English speaking consumers, the principal
22 terms of the contract must be translated in writing into the
23 consumer's primary language. The consumer must sign the
24 translated document containing the principal terms and initial
25 each page and the translator must sign an affirmation
26 confirming that the principal terms have been presented to the

1 consumer in the consumer's primary language and acknowledged by
2 the consumer. Principal terms shall include all items that must
3 be disclosed by Section 2-5.

4 (6) The non-recourse consumer lawsuit funding company
5 shall not knowingly enter into a non-recourse consumer lawsuit
6 funding contract with a consumer where the consumer's legal
7 claim is a pending class action lawsuit at the time of the
8 funding. The non-recourse consumer lawsuit funding company may
9 not discuss a consumer's choice to join a class action lawsuit
10 other than to confirm that a consumer has or has not chosen to
11 join a class action lawsuit. Should any legal claim in which a
12 plaintiff has received non-recourse consumer lawsuit funding
13 become a class action matter, no further funding shall be
14 permitted. The non-recourse consumer lawsuit funding company
15 is prohibited from advancing, loaning, assigning, or otherwise
16 providing funds, directly or indirectly, to any attorney, law
17 firm, or related entity for the purposes of researching,
18 investigating, developing, prosecuting, or otherwise
19 representing parties in class action mass tort litigation.

20 (7) No communication between a consumer's attorney and a
21 non-recourse consumer lawsuit funding company pertaining to a
22 consumer's non-recourse consumer lawsuit funding transaction
23 shall limit, waive, or abrogate any statutory or common-law
24 privilege, including the attorney-client privilege or the
25 work-product doctrine.

26 (8) The return of the funding amount to the non-recourse

1 consumer lawsuit funding company, plus any agreed upon fees,
2 shall be rendered only out of the funds, if any, of the
3 realized settlement, judgment, award, or verdict the consumer
4 may receive from the legal claim. Under no circumstances shall
5 the non-recourse consumer lawsuit funding company have
6 recourse for the funding amount beyond the consumer's proceeds
7 from the legal claim.

8 (9) The non-recourse consumer lawsuit funding company
9 shall have no authority to advise the consumer on any legal
10 matters or to make any decisions with respect to the conduct of
11 the litigation of the legal claim or any settlement or
12 resolution thereof. The right to make those decisions remains
13 solely with the consumer and the consumer's attorney
14 representing the consumer in the legal claim. The non-recourse
15 consumer lawsuit funding company shall have no right to pursue
16 the legal claim on the consumer's behalf.

17 (10) The non-recourse consumer lawsuit funding company
18 shall only accept an assignment of a contingent right to
19 receive a portion of the potential proceeds, rather than an
20 assignment of the legal claim. The contracted return of the
21 funding amount, plus any agreed upon fees assigned to the
22 non-recourse consumer lawsuit funding company, shall not be
23 determined as a percentage of the total recovery from the legal
24 claim, but shall be set as a contractually determined amount
25 based upon intervals of time from the funding date through the
26 resolution date.

1 (11) Notwithstanding subsection (9) of this Section, the
2 non-recourse consumer lawsuit funding company shall allow the
3 consumer to make payments on a funding at any time without
4 additional cost or penalty.

5 (12) Contact between the non-recourse consumer lawsuit
6 funding company and the consumer shall be subject to the
7 following limitations:

8 (A) Neither a non-recourse consumer lawsuit funding
9 company, nor any person acting on behalf of a non-recourse
10 consumer lawsuit funding company, shall contact a consumer
11 prior to the consumer obtaining legal representation and
12 initiating a legal claim.

13 (B) Neither a non-recourse consumer lawsuit funding
14 company, nor any person acting on behalf of a non-recourse
15 consumer lawsuit funding company, shall contact the
16 consumer after the funding date in order to influence any
17 decisions with respect to the conduct of the legal claim or
18 any settlement or resolution thereof. Notwithstanding the
19 foregoing, the non-recourse consumer lawsuit funding
20 company may contact the consumer to obtain the status of
21 the legal claim and updated attorney contact information.

22 (C) After the resolution date, neither a non-recourse
23 consumer lawsuit funding company, nor any person acting on
24 behalf of a non-recourse consumer lawsuit funding company,
25 shall seek to collect additional funds or threaten civil
26 action for any deficiency.

1 Section 2-25. Information; reporting and examination.

2 (a) A licensee shall keep and use books, accounts, and
3 records that will enable the Secretary to determine if the
4 licensee is complying with the provisions of this Act and
5 maintain any other records as required by the Secretary.

6 (b) A licensee shall collect and maintain information
7 annually for a report that shall disclose in detail and under
8 appropriate headings:

9 (1) the total number of non-recourse consumer lawsuit
10 fundings made during the previous calendar year;

11 (2) the total number of non-recourse consumer lawsuit
12 fundings outstanding as of December 31st of the preceding
13 calendar year;

14 (3) the minimum, maximum, and average amount of
15 non-recourse consumer lawsuit fundings made during the
16 preceding calendar year;

17 (4) the average annual fee rate of the non-recourse
18 consumer lawsuit fundings made during the preceding year;
19 and

20 (5) the total number of non-recourse consumer lawsuit
21 funding transactions in which the non-recourse consumer
22 lawsuit funding company received the return of the funding
23 amount, plus any agreed upon fees; the total number of
24 non-recourse consumer lawsuit funding transactions for
25 which the non-recourse consumer lawsuit funding company

1 received no return of the funding amount or any fees; and
2 the total number of non-recourse consumer lawsuit funding
3 transactions in which the non-recourse consumer lawsuit
4 funding company received an amount less than the contracted
5 amount.

6 The report shall be verified by the oath or affirmation of
7 the Chief Executive Officer, Chief Financial Officer, or other
8 duly authorized representative of the licensee. The report must
9 be filed with the Secretary no later than March 1 of the year
10 following the year for which the report discloses the
11 information specified in this subsection (b). The Secretary may
12 impose a fine of \$50 per day upon the licensee for each day
13 beyond the filing deadline that the report is not filed.

14 (c) The Department shall have the authority to conduct
15 examinations at any time of the books, records, and
16 non-recourse consumer lawsuit funding documents of a licensee
17 or other company or person doing business without the required
18 license. Any licensee being examined must provide to the
19 Department convenient and free access at all reasonable hours
20 at its office or location to all books, records, non-recourse
21 consumer lawsuit funding documents. The officers, directors,
22 and agents of the non-recourse consumer lawsuit funding company
23 must facilitate the examination and aid in the examination so
24 far as it is in their power to do so.

25 Section 2-30. Applicability. The contingent right to

1 receive a portion of the potential proceeds of a legal claim is
2 assignable and valid for the purposes of obtaining funding from
3 a licensee under this Section.

4 Article 3. Licensure.

5 Section 3-1. Licensure requirement.

6 (a) Except as provided in subsection (b), on and after the
7 effective date of this Act, a non-recourse consumer lawsuit
8 funding company as defined by Section 1-5 must be licensed by
9 the Department as provided in this Article.

10 (b) A non-recourse consumer lawsuit funding company
11 licensed on the effective date of this Act under the Consumer
12 Installment Loan Act need not comply with subsection (a) until
13 the Department takes action on the non-recourse consumer
14 lawsuit funding company's application for a non-recourse
15 consumer lawsuit funding license. The application must be
16 submitted to the Department within 3 months after the effective
17 date of this Act. If the application is not submitted within 3
18 months after the effective date of this Act, the non-recourse
19 consumer lawsuit funding company is subject to subsection (a).

20 Section 3-5. Licensure.

21 (a) An application for a license shall be in writing and in
22 a form prescribed by the Secretary. Applicants must also submit
23 a non-refundable application fee of \$2,500, due at the time of

1 the application. The Secretary may not issue a non-recourse
2 consumer lawsuit funding license unless and until the following
3 findings are made:

4 (1) that the financial responsibility, experience,
5 character, and general fitness of the applicant are such as
6 to command the confidence of the public and to warrant the
7 belief that the business will be operated lawfully and
8 fairly and within the provisions and purpose of this Act;

9 (2) that the applicant has submitted such other
10 information as the Secretary may deem necessary; and

11 (3) that the applicant is a current licensee under the
12 Consumer Installment Loan Act.

13 (b) A license shall be issued for no longer than one year
14 and no renewal of a license may be provided if a licensee has
15 substantially violated this Act and has not cured the violation
16 to the satisfaction of the Department.

17 (c) A licensee shall appoint, in writing, the Secretary as
18 attorney-in-fact upon whom all lawful process against the
19 licensee may be served with the same legal force and validity
20 as if served on the licensee. A copy of the written
21 appointment, duly certified, shall be filed in the office of
22 the Secretary, and a copy thereof certified by the Secretary
23 shall be sufficient evidence to subject a licensee to
24 jurisdiction in a court of law. This appointment shall remain
25 in effect while any liability remains outstanding in this State
26 against the licensee. When summons is served upon the Secretary

1 as attorney-in-fact for a licensee, the Secretary shall
2 immediately notify the licensee by registered mail, enclosing
3 the summons and specifying the day of service.

4 (d) A licensee must pay an annual fee of \$1,000. In
5 addition to the annual license fee, the reasonable expense of
6 any examination or hearing by the Secretary under any
7 provisions of this Act shall be borne by the licensee. If a
8 licensee fails to submit an application for renewal by December
9 31st of the then current year, its license shall automatically
10 expire; however, the Secretary, in his or her discretion, may
11 reinstate an expired license upon:

12 (1) payment of the annual fee within 30 days of the
13 date of expiration; and

14 (2) proof of good cause for failure to renew.

15 (3) that the applicant is a current licensee under the
16 Consumer Installment Loan Act.

17 (e) No licensee shall conduct the business of providing
18 non-recourse consumer lawsuit funding under this Act within any
19 office, suite, room, or place of business in which any other
20 business is solicited or engaged unless the other business is
21 licensed by the Department and, in the opinion of the
22 Secretary, the other business would not be contrary to the best
23 interests of consumers and is authorized by the Secretary in
24 writing.

25 (f) The Secretary shall maintain a list of licensees that
26 shall be available to interested consumers and lenders and the

1 public. The Secretary shall maintain a toll-free number whereby
2 consumers may obtain information about licensees. The
3 Secretary shall also establish a complaint process under which
4 an aggrieved consumer may file a complaint against a licensee
5 or non-licensee who violates any provision of this Act.

6 Section 3-10. Closing of business; surrender of license. At
7 least 10 days before a licensee ceases operations, closes the
8 business, or files for bankruptcy, the licensee shall:

9 (1) Notify the Department of its intended action in
10 writing.

11 (2) With the exception of filing for bankruptcy, surrender
12 its license to the Secretary for cancellation. The surrender of
13 the license shall not affect the licensee's civil or criminal
14 liability for acts committed before or after the surrender or
15 entitle the licensee to a return of any part of the annual
16 license fee.

17 (3) Notify the Department of the location where the books,
18 accounts, contracts, and records will be maintained.

19 The accounts, books, records, and contracts shall be
20 maintained and serviced by the licensee, by another licensee
21 under this Act, or by the Department.

22 Article 4. Administrative Provisions

23 Section 4-5. Prohibited acts. A licensee or unlicensed

1 person or entity entering into non-recourse consumer lawsuit
2 funding may not commit, or have committed, on behalf of the
3 licensee or unlicensed person or entity, any of the following
4 acts:

5 (1) Threatening to use or using the criminal process in
6 this or any other state to collect the assignment.

7 (2) Using any device or agreement that would have the
8 effect of charging or collecting more fees or charges than
9 allowed in this Act, including, but not limited to, entering
10 into a different type of transaction with the consumer.

11 (3) Engaging in unfair, deceptive, or fraudulent practices
12 related to the non-recourse consumer lawsuit funding.

13 (4) Threatening to take any action against a consumer that
14 is prohibited by this Act or making any misleading or deceptive
15 statements regarding the non-recourse consumer lawsuit
16 funding.

17 (5) Making a misrepresentation of a material fact by an
18 applicant for licensure in obtaining or attempting to obtain a
19 license.

20 (6) Including any of the following provisions in
21 non-recourse consumer lawsuit funding contracts:

22 (A) a confession of judgment clause;

23 (B) a mandatory arbitration clause that is oppressive,
24 unfair, unconscionable, or substantially in derogation of
25 the rights of consumers; or

26 (C) a provision that the consumer agrees not to assert

1 any claim or defense arising out of the contract.

2 (7) Taking any power of attorney.

3 Section 4-10. Enforcement and remedies.

4 (a) The remedies provided in this Act are cumulative and
5 apply to persons or entities subject to this Act.

6 (b) Any material violation of this Act, including the
7 commission of an act prohibited under Section 4-5, constitutes
8 a violation of the Consumer Fraud and Deceptive Business
9 Practices Act.

10 (c) If any provision of the written agreement described in
11 Section 2-5 violates this Act, then that provision is
12 unenforceable against the consumer.

13 (d) Subject to the Illinois Administrative Procedures Act,
14 the Secretary may hold hearings, make findings of fact,
15 conclusions of law, issue cease and desist orders, have the
16 power to issue fines of up to \$10,000 per violation, refer the
17 matter to the appropriate law enforcement agency for
18 prosecution under this Act, and suspend or revoke a license
19 granted under this Act. All proceedings shall be open to the
20 public.

21 (e) The Secretary may issue a cease and desist order to any
22 licensee or other person doing business without the required
23 license, when in the opinion of the Secretary the licensee or
24 other person is violating or is about to violate any provisions
25 of this Act or any rule or requirement imposed in writing by

1 the Department as a condition of granting any authorization
2 permitted by this Act. In addition to any other action
3 authorized by this Act, if the Secretary determines that a
4 non-recourse consumer lawsuit funding company is engaged in or
5 is believed to be engaged in activities that may constitute a
6 violation of this Act and the Secretary is able to show that an
7 emergency exists, the Secretary may suspend the non-recourse
8 consumer lawsuit funding company's license for a period not
9 exceeding 180 calendar days. The cease and desist order and
10 emergency suspension permitted by this subsection (e) may be
11 issued prior to a hearing.

12 The Secretary shall serve notice of his or her action,
13 including, but not limited to, a statement of the reasons for
14 the action, either personally or by certified mail, return
15 receipt requested. Service by certified mail shall be deemed
16 completed when the notice is deposited in the U.S. Mail.

17 Within 10 business days after service of the cease and
18 desist order, the licensee or other person may request a
19 hearing in writing. The Secretary shall schedule a hearing
20 within 30 days after the request for a hearing unless otherwise
21 agreed to by the parties. The Secretary shall have the
22 authority to adopt rules for the administration of this
23 Section.

24 If it is determined that the Secretary had the authority to
25 issue the cease and desist order, he or she may issue such
26 orders as may be reasonably necessary to correct, eliminate, or

1 remedy the conduct.

2 The powers vested in the Secretary by the subsection (e)
3 are additional to any and all other powers and remedies vested
4 in the Secretary by law, and nothing in this subsection (e)
5 shall be construed as requiring that the Secretary shall employ
6 the power conferred in this subsection instead of or as a
7 condition precedent to the exercise of any other power or
8 remedy vested in the Secretary.

9 (f) The Secretary may, after 10 business days notice by
10 registered mail to the licensee at the address set forth in the
11 license stating the contemplated action and in general the
12 grounds therefore, fine the licensee an amount not exceeding
13 \$10,000 per violation, or revoke or suspend any license issued
14 by the Department if found that:

15 (1) the licensee has failed to comply with any
16 provision of this Act or any order, decision, finding,
17 rule, regulation, or direction of the Secretary lawfully
18 made under the authority of this Act; or

19 (2) any fact or condition exists that, if it had
20 existed at the time of the original application for the
21 license, clearly would have warranted the Secretary in
22 refusing to issue the license.

23 No revocation, suspension, or surrender of any license
24 shall impair or affect the obligation of any pre-existing
25 lawful contract between the non-recourse consumer lawsuit
26 funding company and a consumer.

1 The Secretary may issue a new license to a licensee
2 whose license has been revoked when facts or conditions
3 that clearly would have warranted the Secretary in refusing
4 originally to issue the license no longer exist.

5 In every case in which a license or renewal of a
6 license is denied, the Secretary shall serve the licensee
7 with notice of his or her action, including a statement of
8 the reasons for his or her actions, either personally, or
9 by certified mail, return receipt requested. Service by
10 certified mail shall be deemed completed when the notice is
11 deposited in the U.S. Mail.

12 An order assessing a fine, an order revoking or
13 suspending a license, or an order denying or refusing to
14 renew a license shall take effect upon service of the order
15 unless the licensee requests a hearing, in writing, within
16 10 days after the date of service. In the event a hearing
17 is requested, the order shall be stayed until final
18 administrative order is entered.

19 If the licensee requests a hearing, the Secretary shall
20 schedule a hearing within 30 days after the request for a
21 hearing unless otherwise agreed to by the parties.

22 The hearing shall be held at a time and place
23 designated by the Secretary. The Secretary, and any
24 administrative law judge designated by him or her, shall
25 have the power to administer oaths and affirmations,
26 subpoena witnesses and compel their attendance, take

1 evidence, and require the production of books, papers,
2 correspondence, and other records or information that he or
3 she considers relevant or material to the inquiry.

4 The costs of administrative hearings conducted under
5 this Section shall be paid by the licensee.

6 (g) All moneys received by the Department under this Act
7 shall be deposited in the Financial Institutions Fund.

8 Section 4-15. Bonding.

9 (a) A person or entity engaged in non-recourse consumer
10 lawsuit funding under this Act shall post a bond to the
11 Department in the amount of \$50,000 per license or irrevocable
12 letter of credit issued and confirmed by a financial
13 institution authorized by law to transact business in the State
14 of Illinois.

15 (b) A bond posted under subsection (a) must continue in
16 effect for the period of licensure and for 3 additional years
17 if the bond is still available. The bond must be available to
18 pay damages and penalties to be a consumer harmed by a
19 violation of this Act.

20 (c) From time to time the Secretary may require a licensee
21 to file a bond in an additional sum if the Secretary determines
22 it to be necessary. In no case shall the bond be more than the
23 outstanding liabilities of the licensee.

24 Section 4-20. Reporting of violations. The Department

1 shall report to the Attorney General all material violations of
2 this Act of which it becomes aware.

3 Section 4-25. Rulemaking.

4 (a) The Department may make and enforce such reasonable
5 rules, regulations, directions, orders, decisions, and
6 findings as the execution and enforcement of the provisions of
7 this Act require, and as are not inconsistent therewith. All
8 rules, regulations, and directions of a general character shall
9 be made available to all licensees in an electronic format.

10 (b) The Department may adopt rules in connection with the
11 activities of licensees that are necessary and appropriate for
12 the protection of the consumers in this State. These rules
13 shall be consistent with this Act.

14 Section 4-28. Confidentiality. All information collected
15 by the Department under an examination or investigation of a
16 non-recourse consumer lawsuit funding company, including, but
17 not limited to, information collected to investigate any
18 complaint against a non-recourse consumer lawsuit funding
19 company filed with the Department, shall be maintained for the
20 confidential use of the Department and shall not be disclosed.
21 The Department may not disclose such information to anyone
22 other than the licensee, law enforcement officials, or other
23 regulatory agencies that have an appropriate regulatory
24 interest as determined by the Secretary, or to a party

1 presenting a lawful subpoena to the Department. Information and
2 documents disclosed to a federal, State, county, or local law
3 enforcement agency shall not be disclosed by the agency for any
4 purpose to any other agency or person. An order issued by the
5 Department against a non-recourse consumer lawsuit funding
6 company shall be a public record and any documents produced in
7 discovery, filed with the administrative law judge, or
8 introduced at hearing shall be a public record, except as
9 otherwise prohibited by law.

10 Section 4-30. Judicial review. All final administrative
11 decisions of the Department under this Act are subject to
12 judicial review under the provisions of the Administrative
13 Review Law and any rules adopted pursuant thereto.

14 Section 4-35. Waivers. There shall be no waiver of any
15 provision of this Act.

16 Section 4-45. Severability. The provisions of this Act are
17 severable under Section 1.31 of the Statute of Statutes.

18 Section 4-48. Consumer protection study. The Department
19 shall conduct a study to be reported to the Governor and the
20 leaders of the General Assembly no later than February 1, 2015,
21 addressing the adequacy of the consumer protections contained
22 in this Act. The study shall include, but not be limited to:

1 (1) an analysis of the average percentage of a consumer's
2 settlement that is used to return the funding amount in each
3 transaction; (2) a survey of consumer complaints filed against
4 non-recourse consumer lawsuit funding companies; (3) a
5 description of the benefits and shortcomings of non-recourse
6 consumer lawsuit funding to consumers; and (4) any reforms that
7 the Secretary recommends to better regulate non-recourse
8 consumer lawsuit funding companies.

9 Article 90. Amendatory Provisions

10 Section 90-1. The Regulatory Sunset Act is amended by
11 changing Section 4.25 as follows:

12 (5 ILCS 80/4.25)

13 Sec. 4.25. Acts Act repealed on January 1, 2015 and May 31,
14 2015.

15 (a) The following Act is repealed on January 1, 2015:

16 The Genetic Counselor Licensing Act.

17 (b) The following Act is repealed on May 31, 2015:

18 The Non-Recourse Consumer Lawsuit Funding Act.

19 (Source: P.A. 93-1041, eff. 9-29-04.)

20 Section 90-10. The Consumer Fraud and Deceptive Business
21 Practices Act is amended by changing Section 2Z as follows:

1 (815 ILCS 505/2Z) (from Ch. 121 1/2, par. 262Z)

2 Sec. 2Z. Violations of other Acts. Any person who knowingly
3 violates the Automotive Repair Act, the Automotive Collision
4 Repair Act, the Home Repair and Remodeling Act, the Dance
5 Studio Act, the Physical Fitness Services Act, the Hearing
6 Instrument Consumer Protection Act, the Illinois Union Label
7 Act, the Job Referral and Job Listing Services Consumer
8 Protection Act, the Travel Promotion Consumer Protection Act,
9 the Credit Services Organizations Act, the Automatic Telephone
10 Dialers Act, the Pay-Per-Call Services Consumer Protection
11 Act, the Telephone Solicitations Act, the Illinois Funeral or
12 Burial Funds Act, the Cemetery Oversight Act, the Cemetery Care
13 Act, the Safe and Hygienic Bed Act, the Pre-Need Cemetery Sales
14 Act, the High Risk Home Loan Act, the Payday Loan Reform Act,
15 the Mortgage Rescue Fraud Act, subsection (a) or (b) of Section
16 3-10 of the Cigarette Tax Act, subsection (a) or (b) of Section
17 3-10 of the Cigarette Use Tax Act, the Electronic Mail Act, the
18 Internet Caller Identification Act, paragraph (6) of
19 subsection (k) of Section 6-305 of the Illinois Vehicle Code,
20 Section 11-1431, 18d-115, 18d-120, 18d-125, 18d-135, 18d-150,
21 or 18d-153 of the Illinois Vehicle Code, Article 3 of the
22 Residential Real Property Disclosure Act, the Automatic
23 Contract Renewal Act, the Non-Recourse Consumer Lawsuit
24 Funding Act, or the Personal Information Protection Act commits
25 an unlawful practice within the meaning of this Act.

26 (Source: P.A. 96-863, eff. 1-19-10; 96-1369, eff. 1-1-11;

1 96-1376, eff. 7-29-10; 97-333, eff. 8-12-11.)

2 Section 99. Effective date. This Act takes effect 180 days
3 after becoming law.".