



Testimony of Jack Kelly
American Legal Finance Association
Kansas State Senate
Oppose as Written to Senate Bill 74
Committee on Judiciary
February 2nd, 2023

Chairman and members of the House Standing Committee on the Judiciary, thank you for allowing me to address the committee. I am Jack Kelly, Managing Director of the American Legal Finance Association (ALFA). I am here today to respectfully request the adoption of a clarifying amendment to Senate Bill 74. This amendment clarifies that the provisions in this act do not apply to funding transactions where the funds provided are not used for the prosecution of the litigation.

I look forward to working with the sponsors and proponents of this legislation to make the recommended changes.

By way of introduction, ALFA is a trade association comprising 30 of the nation's leading and largest consumer legal funding companies that do business throughout the United States. Established 17 years ago, one of ALFA's first actions was setting industry standards for the Consumer Legal Funding industry. The cornerstone of these best practices is transactional transparency and transparent disclosure to consumers. As a result, all ALFA members ascribe to the ALFA Best Practices.

It is critical for the committee to know that ALFA members do not provide funds to individuals for any costs, fees, or expenses related to the prosecution of litigation. Therefore, a plaintiff can solely use the funds provided by ALFA member companies for their personal life needs like rent, food, or other such expenses.

ALFA Best Practices include:

- Prohibiting any of the funds being used for the costs of the litigation or attorney fees
- Prohibiting the funding company from being involved in any decisions relating to the litigation
- Prohibiting funding companies from paying any referral fees
- Prohibiting funding companies from using false or misleading advertising, and
- Requiring attorney acknowledgment of all fundings.

Consumer legal funding does not create or increase frivolous litigation. As I stated earlier, ALFA members do not provide funds unless the plaintiff has an existing bona fide claim, is represented by an attorney, and prohibits any funds from being used to pay attorney fees or any cost related to their case. These cases are already filed before a plaintiff seeks funds for their personal life needs. Funding a frivolous lawsuit is against the financial interests of a consumer legal funding company as they would lose the funds they provide to the consumer.

Legal funding enables a plaintiff to provide for life needs to prevent an eviction, foreclosure, or car repossession. For example, 78% of consumer legal funding is used to avoid foreclosure, nearly 7% for auto payments, and almost 10% for food. Consumer legal funding does not fund the lawsuit or pay for class actions.

ALFA has led the charge in helping adopt sound legislation governing consumer litigation funding in numerous states, including Indiana, Oklahoma, Utah, Nevada, Tennessee, Vermont, Ohio, Maine, and Nebraska. We again look forward to the opportunity to improve this legislation and ensure that this vital lifeline remains available for Kansans. If you have questions or concerns about this industry, the ALFA members and I stand ready to work with you to address those concerns.