



# North Dakota House of Representatives

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## **Representative Lawrence R. Klemin**

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## **COMMITTEES:**

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### **TESTIMONY OF REP. LAWRENCE R. KLEMIN HOUSE INDUSTRY BUSINES AND LABOR COMMITTEE HOUSE BILL NO. 1372 FEBRUARY 4, 2025**

Mr. Chairman and Members of the House IBL Committee. I am Lawrence R. Klemin, Representative for District 47 in Bismarck. I am here to testify in support of House Bill 1372, relating to the regulation of litigation financing in North Dakota. I was asked to introduce HB 1372 by the American Property Casualty Insurance Association (APCiA).

Lawsuits are increasingly being viewed as investment vehicles. Third-party litigation financing (TPLF) is a growing trend in our judicial system. TPLF is when an investor helps to finance a lawsuit in which the investor has no personal stake, utilizing outside resources instead of the litigant's own funds. TPLF is typically structured as a non-recourse investment by a funder in a lawsuit. This means that the funding is in exchange for an agreed-upon payment by the litigant to the funder from the proceeds of the legal proceeding, typically a percentage of the settlement amount or judgment in a civil case.

Litigation financiers are unregulated in North Dakota, unlike other lenders. The purpose of HB 1372 is regulate litigation financiers who are not subject to the same limitations and regulatory oversight as for normal consumer loans. HB 1372 was prepared with the review and assistance of the ND Department of Financial Institutions. The provisions of HB 1372 are similar to the provisions of North Dakota Century Code Chapter 13-04.1, relating to money brokers.

I would like to provide you with a brief overview of HB 1372. Representatives from the APCIA and the Department of Financial Institutions are here to testify and will provide you with a more detailed explanation of HB 1372 and will answer questions that you may have.

Litigation financing is defined in Section 1 as the advancing of money to pay for expenses or other sums arising from a civil action if the advancing of money is done by a person other than a party to the civil action, a lawyer directly involved in representing a party to a civil action, or an insurer with a contractual obligation in a pre-existing insurance policy to indemnify or defend a party in the civil action. Regulated lenders,

such as banks, are exempt from the provisions that apply to litigation financiers because they are already regulated either by state or federal requirements.

In this bill, litigation financiers are required to obtain an annual license from the Department of Financial Institutions. They must meet minimum net worth requirements. The license is subject to revocation or suspension for failure to comply with statutory requirements. Litigation financing must be done through the use of written contracts that contain disclosure provisions. A party or a party's attorney must serve a copy of the litigation financing contract with the Complaint in a civil action or within 14 days after the commencement of a civil action if not entered into before the action. An insurer defending a party to the civil action must serve a copy of the insurance policy on the party that commenced the action. Insurance policies are generally discoverable under North Dakota Rules of Civil Procedure

The Department of Financial Institutions is authorized to administer and enforce the new chapter regulating litigation financiers and has investigative and examination authority. Violation of the law may subject a litigation financier to criminal and civil penalties as set out in HB 1372.

The new chapter regulating litigation financing is applicable to any civil action commenced after August 1, 2025.

I would now like to invite the representatives from APCIA to testify and answer questions. I urge a "do pass" recommendation on HB 1372. Thank you.

Rep. Lawrence R. Klemin  
District 47, Bismarck