

## ASSEMBLY THIRD READING

ATR Bill Id:AB 743<sup>¶</sup>Author:(Michelle Rodriguez)

As Amended Ver:May 5, 2025

Majority vote

**SUMMARY**

This bill creates the "Lawsuit Financier" license under the California Financing Law.

**Major Provisions**

- 1) Expands the definition of "commercial loan" to include lawsuit finance, as specified.
- 2) Defines "lawsuit financing" to mean a transaction in which a person provides, with or without recourse, money, services, or anything else having value to any person in return for a contingent right to receive an amount out of the proceeds of any realized judgment, award, settlement, or verdict a person may receive on an underlying civil claim or action, or in return for interest, fees, or other consideration.
- 3) Prohibits a person from engaging in the business of lawsuit financing without obtaining a license from the Department of Financial Protection and Innovation (DFPI).
- 4) Requires a licensed lawsuit financier to maintain a surety bond in a minimum amount of \$250,000. Authorizes the commissioner to increase by rule the bond amount based on the dollar amount of lawsuit financing originated by the lawsuit financier.
- 5) Establishes civil penalties for willful violations of any order, provisions or rule of up to \$100,000 for a first violation and up to \$250,000 for each repeat violation.

**COMMENTS**

This bill is focused on hedge funds, sovereign wealth funds, and litigation finance companies—offering capital for commercial litigation, such as business contract disputes or intellectual property claims. The bill does not apply to consumer litigation funding.

- 1) *Lawsuit Financier.* Commercial litigation financing is when a third party invests in a lawsuit in exchange for a share of the profit. The rise in litigation financing raises concerns about the lack of transparency regarding funding lawsuits, disclosures and protections for recipients, and the regulation of litigating financiers. The funding is typically in the millions of dollars by private firms that obtain investment capital from various investors.

In 2024, claim monetization comprised 26% of capital commitments, up from 21% in 2023. Patent litigation remained the top category, comprising 32% of commitments. For the first time, data showed that 19% of commitments were backed by contingent risk insurance.<sup>1</sup>

- 2) *Consumer Financing Law (CFL).* The CFL regulates the making and brokering of secured and unsecured residential and commercial installment loans \$5,000 or more in California by nondepository institutions through the licensure of finance lenders, finance brokers, and

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<sup>1</sup> <https://www.westfleetadvisors.com/wp-content/uploads/2025/03/WestfleetInsider-2024-Litigation-Finance-Report.pdf>

mortgage loan originators. CFL application requirements vary depending on the license. Below are some basic information required.

- a. Legal name, business address, and formation documents (e.g., Articles of Incorporation/Organization)
- b. List of business activities
- c. A detailed business plan

One of the criticisms of legal financing is the lack of transparency about the funders. This bill will require licensing "lawsuit financiers." However, the bill does not require disclosure of the lawsuits financed. Licensing is deemed the first step in knowing who is funding litigation.

### **According to the Author**

The absence of any regulation in the lawsuit financing industry poses substantial risks to California consumers, the legal system, and the state's economic stability. By requiring licensure of lawsuit financiers, AB 743 will introduce long overdue oversight and transparency, helping to prevent and address exploitative financial practices while preserving access to justice for those in need.

### **Arguments in Support**

A coalition of business groups write in support:

(C)ommercial lawsuit financing transactions take place between the investment firm and the lawyer, with funding going directly to the lawyer, (so) the actual parties to the lawsuit often have no idea that one or even several of these firms has a financial stake in the litigation outcome.

The lack of oversight of the lawsuit financing industry has gone on too long, especially amid growing reports of abuses. For example, disbarred California lawyer Tom Girardi used funding from investment firms to bring the lawsuits that perpetuated his fraud. As a result, investors got paid, but his clients, the Lion Air Crash victims' families, never received their money.

### **Arguments in Opposition**

None on file.

## **FISCAL COMMENTS**

- 1) Ongoing costs of a significant amount, in excess of \$150,000, to DFPI to license and examine lawsuit financiers under the CFL, including staff education and training on this specific type of financing, and to update DFPI's license search page (Financial Protection Fund).
- 2) According to a DFPI fund condition report submitted to the Legislature on February 25, 2025, the Financial Protection Fund is projected to become insolvent by the end of fiscal year (FY) 2025-26, with growing deficits anticipated in the following years. These financial challenges are further compounded by the introduction of new regulatory programs, such as the Debt Collection Licensing Act and Digital Financial Assets Law, which require

significant initial funding, as rulemaking and regulatory infrastructure must be established before fees can be collected and full cost recovery is achieved.

## **VOTES**

### **ASM BANKING AND FINANCE: 9-0-0**

**YES:** Valencia, Chen, Dixon, Fong, Krell, Michelle Rodriguez, Blanca Rubio, Schiavo, Soria

### **ASM APPROPRIATIONS: 14-0-1**

**YES:** Wicks, Arambula, Calderon, Caloza, Dixon, Elhawary, Fong, Mark González, Hart, Pacheco, Pellerin, Solache, Ta, Tangipa

**ABS, ABST OR NV:** Sanchez

## **UPDATED**

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