

The House Committee on Rules offers the following substitute to SB 69:

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 7 and Article 5 of Chapter 11 of Title 9 of the Official Code of Georgia
2 Annotated, relating to banking and finance, and depositions and discovery under the
3 "Georgia Civil Practice Act," respectively, so as to regulate third-party litigation financing
4 practices in this state; to enact a new chapter regulating litigation financing practices; to
5 provide for definitions; to require and provide for the registration of litigation financiers; to
6 prohibit any person with relevant affiliations with foreign persons, foreign principals, or
7 sovereign wealth funds from serving as litigation financiers; to require amended registration
8 as a litigation financier; to provide for forms and filing fees; to provide for public disclosure
9 of documents and information; to provide for denial of registration or amended registration
10 as a litigation financier; to provide for notice of such denials; to provide for appeal of such
11 denials; to provide for prohibitions applicable to litigation financiers and exceptions; to
12 provide for joint and several liability for certain litigation financiers; to require litigation
13 financing contracts to include indemnification provisions; to require litigation financing
14 agreements to be memorialized in writing by litigation financing contracts; to provide for
15 required provisions and disclosures to be included in litigation financing contracts; to require
16 and provide for certain disclosures and acknowledgments in litigation financing agreements;

17 to provide for exemptions; to provide for the cancellation of litigation financing agreements;
18 to provide for a criminal offense; to provide for the authority of the Attorney General and
19 prosecuting attorneys to institute criminal proceedings; to provide for penalties; to authorize
20 and provide for the department's participation in the nation-wide multistate licensing system
21 and registry and for matters related thereto; to provide for the authority of the department and
22 the commissioner of banking and finance; to provide for the discovery of litigation financing
23 agreements in civil actions; to provide a short title; to provide for related matters; to provide
24 for effective dates and applicabilities; to repeal conflicting laws; and for other purposes.

25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

26 **SECTION 1.**

27 This Act shall be known and may be cited as the "Georgia Courts Access and Consumer
28 Protection Act."

29 **SECTION 2.**

30 Title 7 of the Official Code of Georgia Annotated, relating to banking and finance, is
31 amended by adding a new chapter to read as follows:

32 "CHAPTER 10

33 7-10-1.

34 As used in this chapter, the term:

35 (1) 'Affiliate' or 'affiliated' means a person that directly, or indirectly through one or more
36 intermediaries, controls, is controlled by, or is under common control with another
37 person.

38 (2) 'Commissioner' means the commissioner of banking and finance.

39 (3) 'Consumer' means any individual who resides, is present, or is domiciled in this state
 40 or who is or has standing to become a plaintiff, claimant, or complainant in a civil action,
 41 administrative proceeding, legal claim, or other legal proceeding or in pursuit of any
 42 claim or cause of action in this state.

43 (4) 'Department' means the Department of Banking and Finance.

44 (5) 'Entity' means any domestic or foreign corporation, partnership, limited partnership,
 45 limited liability company, trust, fund, plan, or any other business, enterprise, association,
 46 or organization of any kind or nature.

47 (6) 'Foreign person' means an individual or an entity that is not:

48 (A) A citizen of the United States;

49 (B) An alien lawfully admitted for permanent residence in the United States;

50 (C) An unincorporated association with a majority of members who are citizens of the
 51 United States or aliens lawfully admitted for permanent residence in the United States;

52 or

53 (D) A corporation that is incorporated in the United States.

54 (7) 'Foreign principal' means:

55 (A) The government or a government official of any country other than the United
 56 States;

57 (B) A political subdivision or political party of a country other than the United States;

58 or

59 (C) A partnership, association, corporation, organization, or other combination of
 60 persons organized under the laws of or having its principal place of business in a
 61 country other than the United States whose shares or other ownership interest is owned
 62 by the government or a government official of a country other than the United States
 63 or is owned by a political subdivision or political party of a country other than the
 64 United States.

65 (8) 'Legal representative' means any attorney, group of attorneys, or law firm duly
66 licensed and authorized to practice law and to represent a consumer in a civil action,
67 administrative proceeding, legal claim, or other legal proceeding seeking to recover
68 damages in this state.

69 (9) 'Litigation financier' means any person engaged in or formed, created, or established
70 for the purpose of engaging in any kind of business or economic activity that involves
71 providing litigation financing in exchange for consideration of any kind.

72 (10)(A) 'Litigation financing agreement' or 'litigation financing' means an agreement
73 in which a litigation financier agrees to provide financing to a consumer or entity that
74 is or has standing to become a party to a civil action, administrative proceeding, legal
75 claim, or other legal proceeding seeking to recover monetary damages, or to counsel
76 for such consumer or entity, in exchange for a right to receive payment, which right is
77 contingent in any respect on the outcome of such action, claim, or proceedings by
78 settlement, judgment, or otherwise, or on the outcome of any matter within a portfolio
79 that includes such action, claim, or proceedings and involves the same legal
80 representative or affiliated representative.

81 (B) Such term shall not include:

82 (i) An agreement wherein a legal representative consents to provide legal services on
83 a contingency fee basis or to advance his or her client's legal costs, and where such
84 services or costs are provided by the legal representative in accordance with the
85 Georgia Rules of Professional Conduct maintained and enforced by the State Bar of
86 Georgia;

87 (ii) A preexisting contractual obligation to indemnify or defend a party to a civil
88 action, administrative proceeding, legal claim, or other legal proceeding seeking to
89 recover monetary damages, or any other legal proceeding;

90 (iii) Any obligation of a health insurer to pay any sums for healthcare for an injured
91 person under the terms of a health insurance plan or agreement;

92 (iv) Any obligation to repay a financial institution, as such term is defined in Code
93 Section 10-5A-1, for loans made directly to a party to a civil action, administrative
94 proceeding, legal claim, or other legal proceeding seeking to recover monetary
95 damages, or such party's legal representative, provided that such repayment of such
96 loan is not contingent upon the outcome of such action, claim, or proceedings, or on
97 the outcome of any matter within a portfolio that includes such action, claim, or
98 proceedings, and involves the same legal representative or affiliated legal
99 representative;

100 (v) Funding provided to a nonprofit organization that is funded by private donations,
101 represents one or more clients on a pro-bono, no-cost basis, and seeks only injunctive
102 relief on behalf of its clients; provided, however, that the provisions of this division
103 shall not be construed to prohibit or otherwise affect any award of costs or attorney's
104 fees to such nonprofit organization seeking only injunctive relief on behalf of a client
105 that such nonprofit organization represents on a pro-bono, no-cost basis, or to such
106 client; or

107 (vi) Banks, institutional investors, and persons that provide financing to a litigation
108 financier but do not engage in the business of litigation financing; provided, however,
109 that this exclusion shall not apply to banks, institutional investors, and persons
110 affiliated with a litigation financier.

111 (11) 'Litigation financing contract' or 'contract' means a written contract memorializing
112 the terms and conditions of a litigation financing agreement.

113 (12) 'Sovereign wealth fund' means an investment fund owned or controlled by a foreign
114 principal or an agent of such foreign principal.

115 7-10-2.

116 (a) It is unlawful for a person to engage in litigation financing in this state unless such
117 person is registered as a litigation financier as provided under this Code section.

118 (b) Each person registering as a litigation financier shall be authorized to do business in
119 this state.

120 (c) To register as a litigation financier, a person shall file with the department a registration
121 statement setting forth the following:

122 (1) The legal name of such person;

123 (2) The principal business address and preferred mailing address of such person;

124 (3) The telephone number and email address through which such person may be
125 contacted;

126 (4) The name, principal business address, and preferred mailing address of such person's
127 registered agent that is authorized to accept service of process on behalf of such person;

128 (5) The name, principal business address, and citizenship or country of incorporation or
129 registration of any foreign person, foreign principal, or sovereign wealth fund affiliated
130 with the person seeking to register as a litigation financier under this Code section in any
131 capacity directly or indirectly related to such person's litigation financing business; and

132 (6) Any other information deemed necessary by the department.

133 (d) If the person seeking to register as a litigation financier is an entity, such entity shall
134 file with the department a registration statement that provides, with respect to each person
135 that directly or indirectly owns, controls, holds with the power to vote, or holds proxies
136 representing 10 percent or more of the voting shares of the litigation financier, the
137 following:

138 (1) The legal name of each such person;

139 (2) The principal business address and preferred mailing address of each such person;

140 (3) If the person is an individual:

141 (A) Such individual's occupation;

142 (B) Any offices and positions held with the person seeking to register as a litigation
143 financier during the past five years;

144 (C) Any conviction of a crime other than misdemeanor traffic violations during the
145 past ten years; and

146 (D) The name, principal business address, and citizenship or country of incorporation
147 or registration of any foreign person, foreign principal, or sovereign wealth fund
148 affiliated with such individual in any capacity directly or indirectly related to such
149 individual's litigation financing business;

150 (4) If the person is an entity:

151 (A) The nature of the entity's business operations during the past five years or a
152 description of the business intended to be undertaken by the entity and such entity's
153 subsidiaries, if any;

154 (B) A list of all individuals who are or who have been selected to become directors or
155 officers of the entity and each subsidiary of the entity, if any. Such list shall include for
156 each individual the information required by paragraph (3) of this subsection; and

157 (C) The name, principal business address, and citizenship or country of incorporation
158 or registration of any foreign person, foreign principal, or sovereign wealth fund
159 affiliated with the entity in any capacity directly or indirectly related to such entity's
160 litigation financing business; and

161 (5) Any other information deemed necessary by the department.

162 (e) No person shall be registered as a litigation financier or shall engage in litigation
163 financing in this state that is, in any capacity directly or indirectly related to such person's
164 litigation financing business, affiliated with any foreign government or foreign
165 nongovernment person or entity designated by the United States Secretary of Commerce
166 as a foreign adversary pursuant to 15 C.F.R. Section 7.4, or any foreign person, foreign
167 principal, or sovereign wealth fund thereof.

168 (f) A person subject to registration under this Code section shall file, within 30 days of any
169 change to the most recently filed registration or within 30 days of when such registration

170 becomes inaccurate or incomplete in any respect, an amended registration with the
171 department.

172 (g) The commissioner is authorized to prescribe the forms and the filing fees that he or she
173 deems necessary for the purposes of this chapter.

174 (h) All documents and information filed with the department pursuant to this Code section
175 are public records subject to disclosure pursuant to Article 4 of Chapter 18 of Title 50.

176 7-10-3.

177 (a) The department may deny a registration to act as a litigation financier or deny a
178 registered litigation financier's amended registration pursuant to subsection (f) of Code
179 Section 7-10-2 if the department finds that:

180 (1) The requirements of this chapter have not been met; or

181 (2) The applicant or registrant; any person who is a director, officer, partner, or owner
182 of the applicant or registrant; or any individual who directs the affairs of or controls or
183 establishes policy for the applicant or registrant has, within the last ten years, been
184 convicted of a felony in any jurisdiction or of a crime which, if committed within this
185 state, would constitute a felony under the laws of this state. For the purposes of this
186 paragraph, a person shall be deemed to have been convicted of a crime if such person
187 shall have pleaded guilty or nolo contendere to a charge thereof before a court or federal
188 magistrate or shall have been found guilty of such crime by the decision or judgment of
189 a court or federal magistrate or by the verdict of a jury, irrespective of the pronouncement
190 of sentence or the suspension thereof and regardless of whether first offender treatment
191 without adjudication of guilt pursuant to the charge was entered or an adjudication or
192 sentence was otherwise withheld or not entered on such charge, unless and until such plea
193 of guilty or such decision, judgment, or verdict shall have been set aside, reversed, or
194 otherwise abrogated by lawful judicial process or until probation, sentence, or both, of
195 a first offender without adjudication of guilt have been successfully completed and

196 documented or unless the person convicted of the crime shall have received a pardon for
197 such crime from the President of the United States or the governor or other pardoning
198 authority in the jurisdiction where the conviction occurred.

199 (b) Notice of the department's intention to enter an order denying a registration or an
200 amended registration shall be provided to the applicant or registrant in writing, sent by
201 registered or certified mail or statutory overnight delivery addressed to the principal place
202 of business of such applicant or registrant. If a person refuses to accept service of the
203 notice by registered or certified mail or statutory overnight delivery, the notice or order
204 shall be served by the commissioner or the commissioner's authorized representative under
205 any other method of lawful service, and the person shall be personally liable to the
206 commissioner for a sum equal to the actual costs incurred to serve the notice or order.
207 Such liability shall be paid upon notice and demand by the commissioner or the
208 commissioner's authorized representative and shall be assessed and collected in the same
209 manner as other fees or fines administered by the commissioner.

210 (c) Within 20 days of the date of the notice of intention to enter an order denying a
211 registration or an amended registration, the applicant or registrant may request in writing
212 a hearing to contest the order. If a hearing is not requested in writing within 20 days of the
213 date of such notice of intention, the department shall enter a final order regarding the
214 denial. Any final order of the department denying a registration or an amended registration
215 shall state the grounds upon which it is based and shall be effective on the date of issuance.
216 A copy of such order shall be forwarded promptly by mail addressed to the principal place
217 of business of such applicant or registrant.

218 (d) A decision by the department denying a registration or an amended registration shall
219 be subject to review in accordance with Chapter 13 of Title 50, the 'Georgia Administrative
220 Procedure Act.'

221 7-10-4.

222 (a) A litigation financier shall not:

223 (1) Direct, or make any decisions with respect to, the course of any civil action,
224 administrative proceeding, legal claim, or other legal proceeding for which such litigation
225 financier has provided litigation financing, or any settlement or other disposition thereof.

226 Such prohibition includes, but is not limited to, decisions in appointing or changing legal
227 representatives, choice or use of expert witnesses, and litigation strategy. All rights to
228 make decisions with respect to the course and settlement or other disposition of the
229 subject civil action, administrative proceeding, legal claim, or other legal proceeding shall
230 remain solely with the parties to such action, claim, or proceedings and their legal
231 representatives. The provisions of this paragraph shall be strictly construed in favor of
232 the individual or entity receiving litigation financing and against the litigation financier;

233 (2) Pay or offer commissions, referral fees, rebates, or other forms of consideration to
234 any person, including, but not limited to, an attorney or any employee of an attorney or
235 a law firm, in exchange for referring a consumer or such consumer's legal representative
236 to a litigation financier; provided, however, that this paragraph shall not apply to an
237 employee, agent, or affiliate of the litigation financier;

238 (3) Accept any commissions, referral fees, rebates, or other forms of consideration from
239 any person, including, but not limited to, an attorney or any employee of an attorney or
240 a law firm, for providing any goods or rendering any services to the consumer; provided,
241 however, that this paragraph shall not apply to an employee, agent, or affiliate of the
242 litigation financier;

243 (4) Contract for, receive, or recover, whether directly or indirectly, any amount greater
244 than an amount equal to the share of the proceeds collectively recovered by the plaintiffs
245 or claimants in a civil action, administrative proceeding, legal claim, or other legal
246 proceeding seeking to recover monetary damages financed by a litigation financing

- 247 agreement after the payment of any attorney's fees and costs owed in connection to such
248 action, claim, or proceedings;
- 249 (5) Advertise false or misleading information regarding its products or services;
250 (6) Refer or require any consumer to hire or engage any person providing any goods or
251 rendering any services to the consumer;
- 252 (7) Fail to promptly deliver a fully completed and signed litigation financing contract to
253 the consumer and the consumer's legal representative;
- 254 (8) Attempt to secure a remedy or obtain a waiver of any remedy, including, but not
255 limited to, compensatory, statutory, or punitive damages, that the consumer may or may
256 not be entitled to pursue or recover otherwise;
- 257 (9) Offer or provide legal advice to the consumer;
- 258 (10) Assign or securitize a litigation financing agreement in whole or in part; provided,
259 however, that, if the litigation financier retains responsibility for collecting payment,
260 administering, and otherwise enforcing the litigation funding contract, the prohibition
261 provided in this paragraph shall not apply to an assignment:
- 262 (A) To a wholly owned subsidiary of the litigation financier;
263 (B) To an affiliate of the litigation financier that is under common control; or
264 (C) Granting a security interest under Article 9 of the Uniform Commercial Code or
265 as otherwise permitted by law; or
- 266 (11) Report a consumer to a credit reporting agency if insufficient funds remain to repay
267 the litigation financier in full from the proceeds received from any judgment, award,
268 settlement, verdict, or other form of monetary relief obtained in a civil action,
269 administrative proceeding, legal claim, or other legal proceeding that is the subject of the
270 litigation financing agreement.
- 271 (b) No person that provides any goods or renders any services related to the litigation to
272 the consumer shall have a financial interest in litigation financing provided by a litigation
273 financier to such consumer, and no such person shall receive any commissions, referral

274 fees, rebates, or other forms of consideration from any litigation financier or the litigation
275 financier's agents, employees, owners, or affiliates.

276 7-10-5.

277 (a) A litigation financier that agrees to provide \$25,000.00 or more in funding pursuant to
278 a litigation financing agreement may be jointly and severally liable for any award or order
279 imposing or assessing costs or monetary sanctions for frivolous litigation against a
280 consumer, entity, or a legal representative of such consumer or entity arising from or
281 relating to any civil action, administrative proceeding, legal claim, or other legal
282 proceeding for which the litigation financier is providing litigation financing; provided,
283 however, that where the litigation financier's right of repayment is a fixed amount set by
284 contract, the liability of such litigation financier shall not exceed the right of repayment less
285 the amount already extended.

286 (b) In each litigation financing contract, the litigation financier shall agree to indemnify,
287 and shall indemnify even without such agreement, the plaintiffs and claimants to the civil
288 action, administrative proceeding, legal claim, or other legal proceeding that is the subject
289 of such litigation financing agreement and such plaintiffs' and claimants' legal
290 representatives against any adverse costs, attorney's fees, damages, or sanctions that may
291 be ordered or awarded against such persons in such action, claim, or proceedings; provided,
292 however, that such indemnification shall not be required or enforceable for adverse costs,
293 attorney's fees, damages, or sanctions that the litigation financier can show resulted from
294 the intentional misconduct of such plaintiffs or claimants or their legal representatives.

295 7-10-6.

296 (a) The terms and conditions of a litigation financing agreement shall be set forth in a fully
297 completed, written litigation financing contract with no material terms or conditions
298 omitted, and such contract shall contain all material terms and conditions at the time it is

299 signed by any party, including, but not limited to the right to cancel such litigation
300 financing agreement without penalty or further obligation within five business days from
301 the date the litigation financing contract is executed by or on behalf of the consumer or the
302 date litigation financing is received from the litigation financier, whichever date is later.

303 (b) Upon execution of a litigation financing contract, a litigation financier shall not amend
304 the terms or conditions of the litigation financing agreement that is memorialized by such
305 contract without full disclosure to and prior written consent of all parties to such litigation
306 financing agreement.

307 (c) Each litigation financing contract with a consumer shall set forth the name, principal
308 business address, and preferred mailing address of the litigation financier on the first page
309 of such contract, and the following disclosures shall be typed in at least 14 point bold font
310 and placed clearly and conspicuously immediately above the consumer's signature line in
311 the litigation financing contract:

312 'IMPORTANT DISCLOSURES -- PLEASE READ CAREFULLY

313 1. Right to Cancellation: You, the consumer, or your legal representative may cancel
314 this litigation financing agreement without penalty or further obligation within
315 five (5) business days from the date you sign this contract or the date you receive
316 financing from the litigation financier, whichever date is later. You or your legal
317 representative may cancel this litigation financing agreement by sending a notice of
318 cancellation to the litigation financier and returning to the litigation financier any
319 funds received from the litigation financier at the litigation financier's preferred
320 mailing address set forth on page 1 of this contract.

321 2. The maximum amount the litigation financier may receive or recover from any
322 contingent payment provided for in this litigation financing agreement shall be no
323 more than an amount equal to the share of the proceeds collectively recovered by the
324 plaintiffs or claimants in a civil action, administrative proceeding, legal claim, or
325 other legal proceeding seeking to recover monetary damages financed by this

326 litigation financing agreement after the payment of any attorney's fees and costs owed
327 in connection to such action, claim, or proceedings.

328 3. The litigation financier agrees that it has no right to, and will not demand, request,
329 receive, or exercise any right to, influence, affect, or otherwise make any decision in
330 the handling, conduct, administration, litigation, settlement, or resolution of your civil
331 action, administrative proceeding, legal claim, other legal proceeding. All of these
332 rights remain solely with you and your legal representative.

333 4. You, the consumer, are not required by the terms of this litigation financing
334 agreement to continue to be represented by any particular legal representative, and the
335 litigation financing agreement does not include any right for the litigation financier,
336 any legal representative, or any other person to claim or seek to recover any
337 assessment, charge, fee, penalty, or damages of any kind if you elect to change legal
338 representatives at any time.

339 5. If there is no recovery of any money from your civil action, administrative
340 proceeding, legal claim, or other legal proceeding, or if there is not enough money to
341 satisfy in full the portion assigned to the litigation financier, you will not owe
342 anything in excess of your recovery.

343 6. You are entitled to a fully completed litigation financing contract with no material
344 terms or conditions omitted prior to signing. Before signing the litigation financing
345 contract, or authorizing anyone to sign it on your behalf, you should read the contract
346 completely and consult an attorney.'

347 (d) Only the consumer shall be authorized to execute a litigation financing contract on his
348 or her own behalf, except in such cases where the consumer lacks the legal capacity to
349 execute a contract. The consumer's legal representative in the civil action, administrative
350 proceeding, legal claim, or other legal proceeding seeking to recover monetary damages
351 financed by the corresponding litigation financing agreement shall not execute a litigation
352 financing contract on behalf of the consumer. A litigation financing contract executed by

353 such legal representative on behalf of such consumer shall be void and unenforceable as
354 a matter of law.

355 (e) If the consumer is represented by a legal representative in the civil action,
356 administrative proceeding, legal claim, or other legal proceeding that is the subject of the
357 litigation financing agreement, the legal representative shall acknowledge in the litigation
358 financing contract that the legal representative and the legal representative's employer and
359 employees have not received or paid a commission, referral fee, rebate, or any other
360 consideration from or to the litigation financier and have no obligation to do so in the
361 future.

362 (f) If the consumer's legal representative is a party to a litigation financing agreement
363 related to the consumer's civil action, administrative proceeding, legal claim, or other legal
364 proceeding that is the subject of the consumer's litigation financing agreement, the legal
365 representative shall disclose and deliver a copy of his or her litigation financing contract
366 to the consumer. Following such disclosure and delivery, the consumer shall sign an
367 acknowledgment that the consumer has read and understands the terms and conditions of
368 his or her legal representative's litigation financing contract. Such consumer shall be
369 provided with a copy of such signed acknowledgment.

370 7-10-7.

371 The provisions of this chapter shall not apply to:

372 (1) A nonprofit entity that provides litigation financing, directly or indirectly, for the
373 benefit of such nonprofit entity or one or more of its members without receiving, in
374 consideration for the litigation financing:

375 (A) The payment of interest, fees, or other consideration; or

376 (B) Except for in-house counsel of such nonprofit entity, any right to recovery or
377 payment from the amount of any judgment, award, settlement, verdict, or other form

378 of monetary relief obtained in the civil action, administrative proceeding, legal claim,
379 or other legal proceeding;

380 (2) Any litigation financing provided by an entity engaged in commerce or business
381 activity; provided, however, that this exemption shall apply only if such entity does not:

382 (A) Charge, contract for, collect, or receive any interest, fees, or other consideration;

383 (B) Retain or receive any financial interest in the outcome of the civil action,
384 administrative proceeding, legal claim, or other legal proceeding; or

385 (C) Retain or receive any right to recovery or payment from the amount of any
386 judgment, award, settlement, verdict, or other form of monetary relief obtained in the
387 civil action, administrative proceeding, legal claim, or other legal proceeding; or

388 (3) A lender that does not receive, in consideration for loaning money to any person, a
389 right to receive payment from the value of any proceeds or other consideration realized
390 from any judgment award, settlement, verdict, or other form of monetary relief any
391 person may receive or recover in relation to any civil action, administrative proceeding,
392 legal claim, or other legal proceeding.

393 7-10-8.

394 Any violation of this chapter by a litigation financier renders the litigation financing
395 agreement void and unenforceable by such litigation financier or any successor-in-interest
396 to the litigation financing agreement.

397 7-10-9.

398 (a) It is unlawful for a litigation financier to enter into or offer to enter into a litigation
399 financing agreement unless such litigation financier is registered under this chapter.

400 (b) A person that willfully violates this chapter shall be guilty of a felony and upon
401 conviction thereof, shall be imprisoned not less than one nor more than five years, or fined
402 not more than \$10,000.00, or both; provided, however, that on the recommendation of the

403 jury trying the case, when such recommendation is approved by the judge presiding on the
404 trial, such crime shall be punished as a misdemeanor. If the judge trying the case deems
405 it proper, such judge may, in fixing the punishment, reduce such felony to a misdemeanor.
406 (c) The commissioner may refer to the Attorney General or the proper prosecuting attorney
407 the name of any person acting as a litigation financier that is not registered or any applicant
408 or registrant that is or may not be in compliance with this chapter; provided, however, that
409 the Attorney General or the proper prosecuting attorney may institute criminal proceedings
410 under this chapter with or without such referral.
411 (d) This chapter does not limit the power of this state to punish a person for conduct that
412 constitutes a crime under other laws of this state.

413 7-10-10.

414 (a) The department is authorized to:

- 415 (1) Participate in the nation-wide multistate licensing system and registry in order to
416 facilitate the sharing of information and standardization of the registration processes for
417 litigation financiers by electronic or other means;
418 (2) Enter into operating agreements, information sharing agreements, interstate
419 cooperative agreements, and other contracts necessary for the department's participation
420 in the nation-wide multistate licensing system and registry;
421 (3) Request that the nation-wide multistate licensing system and registry adopt an
422 appropriate privacy, data security, and security breach notification policy that is in full
423 compliance with existing state and federal law;
424 (4) Disclose or cause to be disclosed without liability via the nation-wide multistate
425 licensing system and registry registration information, including, but not limited to,
426 violations of this chapter and enforcement actions;
427 (5) Establish and adopt, by rule or regulation, requirements for participation by
428 registrants in the nation-wide multistate licensing system and registry upon the

429 department's determination that each new or amended requirement is consistent with both
430 the public interest and the purposes of this chapter; and
431 (6) Pay all fees received from applicants and registrants related to registrations to the
432 Office of the State Treasurer; provided, however, that the department may net such fees
433 to recover the cost of participation in the nation-wide multistate licensing system and
434 registry.
435 (b) Irrespective of its participation in the nation-wide multistate licensing system and
436 registry, the department retains full and exclusive authority over determinations whether
437 to grant registrations to litigation financiers under this chapter. Nothing in this Code
438 section shall be construed to reduce this authority.
439 (c) Applicants and registrants shall be required to pay any charges associated with their
440 utilization of the nation-wide multistate licensing system and registry.

441 7-10-11.

442 The commissioner is authorized to adopt rules and other policies in overseeing the practice
443 of litigation financing consistent with this chapter."

444 **SECTION 3.**

445 Article 5 of Chapter 11 of Title 9 of the Official Code of Georgia Annotated, relating to
446 depositions and discovery under the "Georgia Civil Practice Act," is amended in Code
447 Section 9-11-26, relating to general provisions governing discovery, by adding a new
448 paragraph to subsection (b) to read as follows:

449 "(2.1)(A) **Litigation financing agreement.** A party may obtain discovery of the
450 existence and terms and conditions of any litigation financing agreement, as such term
451 is defined in Code Section 7-10-1, the subject of which is or includes the pending
452 action; provided, however, that this subparagraph shall not apply to nonparties unless
453 the litigation financing agreement is for \$25,000.00 or more in funding.

454 (B) Information concerning the litigation financing agreement is not by reason of
455 disclosure admissible in evidence at trial; provided, however, that nothing in this
456 subparagraph shall be construed to limit the admissibility of such information as
457 evidence of a party's claim or defense;”

458 **SECTION 4.**

459 (a) Except as provided in subsection (b) of this section, this Act shall become effective on
460 January 1, 2026.

461 (b) Section 3 of this Act shall become effective upon its approval by the Governor or upon
462 its becoming law without such approval and shall apply to:

463 (1) Any civil action, administrative proceedings, legal claims, or other legal proceedings
464 commenced on or after the effective date of this Act; and

465 (2) Any contracts entered into on or after the effective date of this Act.

466 **SECTION 5.**

467 All laws and parts of laws in conflict with this Act are repealed.