

February 15, 2022

The Honorable Fred Patton, Chairperson
House Committee on Judiciary
Statehouse, Room 582-N
Topeka, Kansas 66612

Dear Representative Patton:

SUBJECT: Fiscal Note for HB 2694 by House Committee on Judiciary

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2694 is respectfully submitted to your committee.

HB 2694 would enact the Third-Party Litigation Financing Consumer Protection Act. The bill specifies that a litigation financier could not engage in a litigation financing transaction in Kansas, unless the financier is registered. The Secretary of State would be required to register a litigation financier that is a business entity if the business entity is:

1. Active and in good standing as reflected in the records of the Secretary of State; and
2. Has a charter, articles of organization, certificate of limited partnership or other organizational document or, if the entity is a foreign entity, the entity's Kansas application for a certificate of authority, that contains a statement that the entity would be designated as a litigation financier pursuant to the Act.

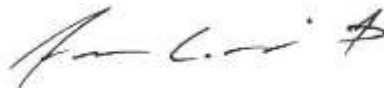
The Secretary of State would register a litigation financier that is not a business entity if the financier files an application for registration as a litigation financier with a filing fee of \$100 on a form prescribed by the agency. The bill specifies the information that would be required on the form. A litigation financier would file with the Secretary of State a surety bond of not less than \$50,000. The bond would be made payable to any person who may have a cause of action against a litigation financier for a violation of the Act. The bond would continue in effect during any time a litigation financier is registered. A litigation financier would be required to notify the Secretary of State when any information filed with the agency has changed within 30 days of the change. All documents filed would be considered open records and subject to the Kansas Open Records Act.

The bill lists prohibited acts that a litigation financier could not engage in, and the bill outlines the requirements for a litigation financing agreement. The bill would require the consumer or the consumer's legal representative to share copies of the litigation financing agreement with all parties in the litigation. The bill would set out requirements for an annual report each litigation financier would be required to file with the Secretary of State. The Secretary of State would also be required to file a report with the Legislature; however, the report could not contain any personal identifiable information of any consumer.

The Act would apply to any class action lawsuit. Class members and the court would be advised if the proposed class attorney has a legal or financial relationship with a litigation financier. The Act would not apply to litigation financing provided to commercial enterprises unless the situation arises from a personal injury claim or an aggregation of personal injury claims, whether by subrogation, assignment, or any other basis. Any violation of the Act would make a litigation financing contract unenforceable by the litigation financier, the consumer, or any successor-in-interest to the litigation financing contract. The bill would take effect on January 1, 2023, and upon its publication in the statute book.

According to the Office of Judicial Administration, enactment of the bill would have a negligible fiscal effect on Judicial Branch operations. The Office of the Secretary of State indicates any fiscal effect resulting from the enactment of HB 2694 could be absorbed within existing resources and would have a negligible effect on fee fund revenues. Any fiscal effect associated with HB 2694 is not reflected in *The FY 2023 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Adam Proffitt", with a stylized flourish at the end.

Adam Proffitt
Director of the Budget

cc: Vicki Jacobsen, Judiciary
Willie Prescott, Office of the Attorney General