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BILL ANALYSIS / SUMMARY

H0646

2026 Regular Session

02/20/2026

IDAHO DAIRYMEN'S ASSOCIATION POSITION: SUPPORT

SHORT TITLE: Litigation Financing Transparency

SPONSOR(S): Representative Jordan Redman, R – Coeur d'Alene

COMMITTEE ASSIGNMENT: House Business Committee

STATEMENT OF PURPOSE: In other states the practice of third party litigation financing has become a problem, as lenders essentially buy a stake in the litigation that is contingent on the outcome of a lawsuit. In most cases those lenders gain a right to control or influence the litigation as a way to secure their investment. That can cause the actual party to the lawsuit to lose control of the litigation on their own case, essentially selling it to the lender. This legislation provides transparency so that lending arrangements are open to the court and to the litigants. It provides consumer protections to assure that these lawsuit lenders don't displace the actual parties in the decision making on their own litigation and prevents exploitation and undue influence over legal proceedings. Finally, it prevents foreign adversaries and other foreign persons of concern from interfering in the Idaho judicial system by becoming lawsuit lenders.

FISCAL NOTE: This legislation has no fiscal impact because it does not require an appropriation of funds nor does it have an effect on state revenue. To the degree it will prevent abuses of the judicial system in Idaho by avoiding unnecessary or unnecessarily complicated litigation, it should have a positive influence on the state general account.

Bill Summary:

Registration

House Bill 646 establishes a framework to regulate third-party financed litigation. Any person or entity engaging in litigation financing must register with the secretary of state. Registration shall include identifying information for the financier and any related parties with an interest. The documents provided to the secretary of state shall be public records.

Contract Requirements

Litigation financiers must use written litigation financing contracts that are complete and contain all terms and conditions. Financiers may not offer consideration for

referrals, provide legal advice, falsely advertise, or influence litigation decisions. Financiers are prohibited from charging an interest rate higher than fifteen percent or more than six interest points higher than the prime rate. It also limits financiers to recover twenty-five percent of any judgment or recovery. Financing contracts must be complete when signed by both parties and may not be amended without prior written consent from all parties.

The consumer or their legal representative must disclose and deliver the litigation financing contract to all parties, the court or tribunal where the claim is pending, and any known person with a duty to indemnify the consumer. Contract disclosure must be made within thirty (30) days of entering into or amending a financing contract. The existence of a litigation financing contract is discoverable in any legal claim in which financing is provided under contract.

Exemptions

501(c)(3) nonprofit entities, and nonprofit entities providing litigation financing, funding, or money to a legal representative on a pro bono basis are exempt so long as the organization does not receive consideration in excess of the cost of litigation. Businesses and regulated lenders who do not collect interest, fees, or receive any right to recovery or payment resulting from the judgment are also exempted.

Class Action

Litigation financiers owe a fiduciary duty to all class members throughout the civil action. Legal representatives must disclose to the court, and the class, any relationship they have with the financier. Every member of the putative class is entitled to a true copy of the litigation financing contract.

Foreign Participation

The bill strictly regulates foreign participation by prohibiting foreign adversaries or persons of concern from engaging in litigation financing. It also prohibits the disclosure of proprietary information to foreign persons. This includes accepting investment, financing, or funding from a foreign adversary or person of concern. Foreign persons who are qualified to engage in litigation financing in the state must disclose any affiliation with foreign persons, any funds or investment received, and any ownership stake controlled by foreign persons. If a foreign financier engages in prohibited action, they must provide written documentation to the secretary of state submitting identifying information for the foreign person and any contracts they have an interest in.

Enforcement

The secretary of state is responsible for making and adopting rules overseeing litigation financing. Any violation of the provisions of this bill renders the litigation financing contract unenforceable. Financing contracts that charge interest rates exceeding those permitted under Idaho law shall be penalized.

Reasoning for Position: IDA supports H646 because it shines light on third party litigation financing and allows the public to obtain information about financiers. The strict requirements and limitations on financier recovery will reduce frivolous lawsuits by removing the monetary incentive. Additionally, H646 sets clear limitations on foreign participation and prohibits foreign adversaries from disrupting Idaho's economic interests. Idaho's dairymen support this legislation because it provides protection from lawsuits funded by third parties for monetary gain.

Impacts to Agriculture: H646 will provide additional protection to agriculture by requiring transparency relating to litigation funding and limiting foreign participation. The restrictions in this bill will help reduce frivolous citizen suit claims that are funded by bad actors, or foreign interests. This will provide extra protection from foreign funded litigation around resource and environmental claims.

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