

L I C E N S I N G   D I V I S I O N

- Athlete Agent • Collection Agency • Debt Management •
- Private Detectives • Non-Recourse Civil Litigation Funding Companies •
- Truth & Deception Examiners •

Robert B. Evnen  
Secretary of State

DAVID L. WILSON JR.  
Licensing Director

MEMORANDUM

Date: March 28, 2019  
Re: Annual Report to Legislature: Non-Recourse Civil Litigation Funding  
To: Clerk of the Legislature and Judiciary Committee  
From: Robert B. Evnen, Secretary of State

INTRODUCTION

Nonrecourse Civil Litigation Act, LB1094 of the One Hundred First Legislative Session, was signed by the Governor and became law on April 13, 2010, with an effective date of June 15, 2010. Neb. Rev. Stat. §25-3301 through §25-3309. As described by Senator Lathrop during the Judiciary Committee meeting held on February 11, 2010, Nonrecourse Civil Litigation Funding has always been legal in Nebraska but was unregulated before the introduction of this bill. The renewal year for Nonrecourse Civil Litigation Funding Companies ("CLFCs") runs from October 1 through September 30.

NATURE OF THE BUSINESS

After a catastrophic injury many consumers find themselves without the means to sustain their basic needs while their legal claim for damages is pending. CLFCs advance funds to consumers in return for an assignment of the claim that is currently being litigated. CLFCs evaluate the future worth of the consumers claim and advance money based on that calculation. Funds are only repaid if the consumer is awarded a monetary judgment.

STATUS OF THE STATE REGISTRATION PROGRAM

Only four (4) companies were registered as CLFCs during the reporting period and renewed for the 2019 licensing year. They are based out of state and are:

1. Oasis Legal Finance, LLC, 9525 W. Bryn Mawr Ave., Ste. 900, Rosemont, IL 60018;
2. Preferred Capital Funding - Nebraska, LLC, 368 W. Huron Street, Ste. 4s, Chicago, IL 60654;
3. Thrivest Legal Funding, LLC, 161 Washington Street, STE. 240, Conshohocken, PA 19428; and
4. US Claims OPCA LLC, 1625 S. Congress Ave., Ste. 200, Delray Beach, FL 33445.

One company was registered in 2018 but did not renew: Plaintiff Funding Holding, Inc., 26 Court St., Brooklyn, NY 11242.

The Secretary of State's Licensing Division sent out renewal applications in September 2018. Attached to the renewal application was a form for the Annual Report of Activity in Nebraska for each company to submit data mandated by Neb. Rev. Stat. §25-3309. The five data points are shown in the attached spreadsheet.

As reported by the registered CLFCs, \$376,294 was advanced to 130 Nebraska consumers and 105 consumers were expected to repay during the Reporting Period. Some of those cases on which funds were advanced were settled, paid, waived or written off during the Reporting Period. From the information provided a total of \$205,362 was written off as a loss and 44 cases were settled for less than the company contracted.

#### **Annual Percentage Fee**

The annual percentage fee being charged by CLFCs to Nebraska consumers ranges from 25.05% to 119.55%. Only two CLFCs resolved fundings in Nebraska during the Reporting Period and each gave a different annual percentage fee which is shown on the attached spreadsheet. Other itemized fees being charged include an origination fee and a delivery fee.

Prepared and submitted by:



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David L. Wilson, Jr.  
Licensing Director and Association General Counsel

2018 Annual Report for Non-Recourse Civil Litigation (September 2017-August 2018)	Oasis Legal Finance, LLC	Preferred Capital Funding Neb	Thrivest Legal Funding, LLC	US Claims OPCO LLC	Totals:
Total number of nonrecourse civil litigation fundings originated in Nebraska for the period September 1, 2017 to August 31, 2018 (the "Reporting Period"):	109	19	0	2	130
Total value (dollar amount) of nonrecourse civil litigation fundings originated in Nebraska for the Reporting Period:	\$210,985	\$91,809.90	\$0.00	\$73,500	\$376,294.90
Total number of nonrecourse civil litigation fundings, regardless of year funded since June 15, 2010 (the "Funding Period"), required to be repaid during the Reporting Period:	105	0	0	0	105
The amount charged to the consumer, including, but not limited, the annual percentage fee[i] charged to the consumer and the itemized fees charged to the consumer in Nebraska during the Funding Period for fundings which were resolved during the Reporting Period	Itemized Fees = \$95,154; Annual Percentage Fee = 25.05%	Itemized Fees = \$0.00; Annual Percentage Fee = 119.55%	0	\$0	Itemized Fees = \$95,154; Annual Percentage Fee = 25.05% to 119.55%
The number of cases, funded during the Funding Period, closed during the Reporting Period in which the realization to the civil litigation funding company was less than contracted and the total dollar amount of such losses:	44 cases for a \$205,362 loss	0	0	0	44 Closed Cases for a cumulative loss of \$205,362

[i] Annual Percentage Fee shall be calculated as follows:

**Total Fees Charged** (The total amount collected during the Reporting Period for transactions Funded”) funded during the Funding Period minus the “Total Amount

divided by

**Total Amount Funded** (The total amount funded for all transactions funded during the Funding Period that were resolved during the Reporting Period)

divided by

**Average Number of Days of Term** (for all transactions resolved during the Reporting Period)

multiplied by 365

multiplied by 100 (to put the decimal in the correct place)

**Example**

13,288 (**Total Fees Charged**)

divided by

23,430 (**Total Funded**)

divided by

390.55 (**Average Number of Days of Term**)

multiplied by 365

multiplied by 100

Average Annual Percentage Fee = 53%

13,288 (Total Fees Charged) ÷ 23,430 (Total Funded) ÷ 390.55 (Average Number of Days of Term) x 365 x 100 = 53%