

AMENDMENTS TO LB199

Introduced by Judiciary.

1 1. Strike the original sections and insert the following new
2 sections:

3 **Section 1.** (1) An action for personal injury can only be brought
4 within three years.

5 (2) This section shall only apply to causes of action accruing on or
6 after the effective date of this act.

7 **Sec. 2.** Section 25-3301, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 25-3301 Sections 25-3301 to 25-3309 and section 4 of this act shall
10 be known and may be cited as the Nonrecourse Civil Litigation Act.

11 **Sec. 3.** Section 25-3302, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 25-3302 For purposes of the Nonrecourse Civil Litigation Act:

14 (1) Civil litigation funding company means a person or entity that
15 enters into a nonrecourse civil litigation funding transaction with a
16 consumer;

17 (2) Consumer means a person residing or domiciled in Nebraska or who
18 elects to enter into a transaction under the act, whether it be in
19 person, over the Internet, by facsimile, or by any other electronic
20 means, and who has a pending legal claim and is represented by an
21 attorney at the time he or she receives the nonrecourse civil litigation
22 funding;

23 (3) Legal claim includes means a civil claim or action or a claim
24 presented in an administrative proceeding; and

25 (4) Nonrecourse civil litigation funding means a transaction in
26 which a civil litigation funding company purchases and a consumer assigns
27 the contingent right to receive an amount of the potential proceeds of

1 the consumer's legal claim to the civil litigation funding company out of
2 the proceeds of any realized settlement, judgment, award, or verdict the
3 consumer may receive in the legal claim. Nonrecourse civil litigation
4 funding includes funding provided to an attorney or law firm where the
5 right to receive repayment is contingent in any respect on the outcome of
6 the consumer's legal claim.

7 **Sec. 4.** (1) Within thirty calendar days after receipt of a written
8 request, a consumer or the consumer's attorney shall disclose and deliver
9 a copy of any contract for nonrecourse civil litigation funding to the
10 following persons:

11 (a) Each party to the legal claim or each party's attorney;

12 (b) Any court, agency, or tribunal in which the legal claim is
13 pending; and

14 (c) Any known person, including an insurer, with a preexisting
15 contractual obligation to indemnify or defend a party to the legal claim.

16 (2) The disclosure obligation under subdivision (1)(c) of this
17 section exists regardless of whether a civil action or an administrative
18 proceeding has commenced.

19 (3) The disclosure obligation under subsection (1) of this section
20 is a continuing obligation. Within thirty days after entering into a new
21 contract for nonrecourse civil litigation funding or amending an existing
22 contract, the consumer or the consumer's attorney shall disclose and
23 deliver any new or amended contract.

24 (4) The existence of a contract for nonrecourse civil litigation
25 funding and all participants or parties to such contract are permissible
26 subjects of discovery in any legal claim for which litigation funding is
27 provided under the contract.

28 **Sec. 5.** Section 25-3309, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 25-3309 (1) The Secretary of State shall issue a certificate of
31 registration to a civil litigation funding company who complies with

1 subsection (2) of section 25-3307 or a renewal of registration under
2 subsection (3) of section 25-3307.

3 (2) The Secretary of State may refuse to issue a certificate of
4 registration if the Secretary of State determines that the character,
5 fitness, or financial responsibility of the civil litigation funding
6 company are such as to warrant belief that the business will not be
7 operated honestly or fairly within the purposes of the Nonrecourse Civil
8 Litigation Act.

9 (3) The Secretary of State may suspend, revoke, or refuse to renew a
10 certificate of registration (a) for conduct that would have justified
11 denial of registration under subsection (2) of section 25-3307, (b) or
12 for violating section 25-3304, or (c) for knowingly violating section 4
13 of this act.

14 (4) The Secretary of State may deny, suspend, revoke, or refuse to
15 renew a certificate of registration only after proper notice and an
16 opportunity for a hearing. The Administrative Procedure Act applies to
17 the Nonrecourse Civil Litigation Act.

18 (5) The Secretary of State may issue a temporary certificate of
19 registration while an application for registration or renewal of
20 registration is pending.

21 (6) The Secretary of State shall require a civil litigation funding
22 company registered pursuant to the act to annually submit certain data,
23 in a form prescribed by the Secretary of State that contains:

24 (a) The number of nonrecourse civil litigation fundings;

25 (b) The amount of nonrecourse civil litigation fundings;

26 (c) The number of nonrecourse civil litigation fundings required to
27 be repaid by the consumer;

28 (d) The amount charged to the consumer, including, but not limited
29 to, the annual percentage fee charged to the consumer and the itemized
30 fees charged to the consumer; and

31 (e) The dollar amount and number of cases in which the realization

1 to the civil litigation funding company was less than contracted.

2 (7) The Secretary of State shall annually prepare and electronically
3 submit a report to the Clerk of the Legislature and to the Judiciary
4 Committee of the Legislature on the status of nonrecourse civil
5 litigation funding activities in the state. The report shall include
6 aggregate information reported by registered civil litigation funding
7 companies.

8 **Sec. 6.** The Revisor of Statutes shall assign section 1 of this act
9 to Chapter 25, article 2.

10 **Sec. 7.** Original sections 25-3301, 25-3302, and 25-3309, Reissue
11 Revised Statutes of Nebraska, are repealed.