



HouseJudiciary@rilegislature.gov

February 4, 2025

Representative Robert E. Craven, Sr.
Chair, House Judiciary Committee
Rhode Island State House
Providence, RI 02903

Re: House 5221 – An Act Relating To Courts And Civil Procedure – Procedure Generally – Third-Party Litigation Financing Consumer Protection Act

Dear Chair Craven:

The American Property Casualty Insurance Association (APCIA)¹ urges your support of H.5221. This bill creates a new chapter in Title 9 (Courts and Civil Procedure) providing comprehensive consumer protections around third-party litigation financing (TPLF).

TPLF is the relatively recent phenomenon of external entities (hedge funds, etc.) financing civil legal actions on behalf of plaintiffs, in exchange for a percentage of the plaintiff's recovery. In essence, these private finance firms turn the judicial system into an investment market as an otherwise uninterested party is betting on the outcome of litigation for prospective profit.

TPLF operates in a legal gray area without disclosure requirements or regulatory guard rails. As a result, there is little transparency in lending or protections for consumers and unscrupulous lenders can gain access to sensitive attorney-client privileged information. For example, though TPLF acts like a loan from the consumer's perspective, they are not treated as such under the law. Consumer TPLF rates often range from 15% to 124%², six times the Rhode Island contractual usury limit (21%)³. And, because TPLF investors are paid first, plaintiffs who suffered injuries are encouraged to reject reasonable settlements in favor of riskier higher payouts and are often still left with only a small fraction of the verdict.⁴

¹ Representing nearly 65% of the U.S. property casualty insurance market, APCIA promotes and protects the viability of private competition for the benefit of consumers and insurers. APCIA represents the broadest cross-section of home, auto, and business insurers of any national trade association. APCIA members represent all sizes, structures, and regions, which protect families, communities, and businesses in the U.S. and across the globe. Several APCIA members are located in Rhode Island and many more do business here. Together, APCIA members write almost 72% of the property casualty insurance sold in the state.

² Claims Update: Thid Party Litigation Funding, TransRe, November 2024, <https://www.transre.com/claims-update-third-party-litigation-funding/>

³ RI GL Title 6 §6-26-2

⁴ Id. "...[O]ne litigant received an \$18,000 advance and owed \$33,000 to the funder six months later. Another plaintiff borrowed \$27,000 to pursue a 'slip and fall' case which settled. After the funder took almost \$100,000 and attorney fees were paid, the plaintiff was left with \$111. In 2016, plaintiffs received 55% of compensation paid in the commercial liability tort system. However, where TPLF was involved, that figure dropped to 43%. A plaintiff using TPLF would need to receive a 27% higher award to receive the same payment as one not doing so.

Over the last few years, large hedge funds have been generating explosive growth in TPLF. In 2022, the Center for Strategic and International Studies found that \$3.2 billion was deployed during the year into the U.S. market by litigation funders, a 16 percent increase over the previous year.⁵ There are now dozens of active funders holding a combined \$13.5 billion in assets under management.⁶ Yet they are allowed to operate in Rhode Island today with negligible oversight.

TPLF also presents a significant threat of international interference whereby rogue foreign actors attempt to exploit the U.S. legal system, especially in patent cases. This drives out small businesses and entrepreneurs, raises costs for consumers, and depresses innovation. The Software and Information Industry Association estimates that “more than 80% of all patent suits are brought by patent trolls, often funded by undisclosed third-party beneficiaries.”⁷ Rhode Island has experienced these issues firsthand, as explained in the “legislative findings and the statement of purpose” of the 2016 “patent troll” bill (S.2542)⁸, enacted as RI GL § 6-41.1-3. This law followed a 2014 report finding at least 20 businesses in Rhode Island had been sued by patent trolls.⁹ H.5221 is a logical next step, creating TPLF oversights and up-front disclosures to complement the back end right of action in RI GL § 6-41.1-3 for those harmed by bad faith patent infringement cases.

For the reasons stated herein, APCIA requests that the committee recommend passage of H.5221. Please reach out if you would like to discuss this issue further.

Very truly yours,



Jonathan Schreiber
Associate Vice President, State Government Relations
American Property Casualty Insurance Association (APCIA)
Jonathan.schreiber@apci.org
(202) 828-7121

⁵ [Litigation Funders Deployed \\$3.2 bln in US Investments Last Year - Report](https://www.reuters.com/markets/us/litigation-funders-deployed-32-bln-us-investments-last-year-report-2023-02-16/), Reuters, (February 16, 2023) <https://www.reuters.com/markets/us/litigation-funders-deployed-32-bln-us-investments-last-year-report-2023-02-16/>

⁶ Id.

⁷ SIIA Endorses the Litigation Transparency Act of 2024, October 15, 2024, <https://www.sii.net/siia-endorses-the-litigation-transparency-act-of-2024/>

⁸ <https://webserver.rilegislature.gov/BillText16/SenateText16/S2542.pdf>

⁹ Rep. Kennedy Resubmits Legislation that would Protect Against Patent Trolls, February 3, 2016 https://www.rilegislature.gov/pressrelease/_layouts/RIL.PressRelease.ListStructure/Forms/DisplayForm.aspx?List=c8baae31%2D3c10%2D431c%2D8dcd%2D9dbbe21ce3e9&ID=11342&Web=2bab1515%2D0dcc%2D4176%2D2a2f8%2D8d4beebdf488