WEST virginia legislature

2024 regular session

Introduced

Senate Bill 850

By Senator Trump

[Introduced February 19, 2024; referred
 to the Committee on the Judiciary]

A BILL to amend and reenact §46A-6N-1 of the Code of West Virginia, 1931, as amended, all relating to the Consumer Credit and Protection Act; defining terms; removing commercial tort claims exclusion from definition of litigation financing; and excluding certain non-profit organizations from the definition of litigation financing.

Be it enacted by the Legislature of West Virginia:

Article 6N. Consumer Litigation Financing.

§46A-6N-1. Definitions.

For purposes of this article:

(1) "Consumer" means any ~~natural~~ person who resides, is present, or is domiciled in this state;

(2) "Litigation financier" means a person, entity, or partnership engaged in the business of litigation financing; and

(3) "Litigation financing" or "litigation financing transaction":

(A) Means a ~~nonrecourse~~ transaction in which financing is provided to a consumer in return for a consumer's assigning to the litigation financier a contingent right to receive an amount of the potential proceeds of the consumer's judgment, award, settlement, or verdict obtained with respect to the consumer's legal claim; and

(B) Does not include:

(i) Legal services provided on a contingency fee basis, or advanced legal costs, where such services or costs are provided to or on behalf of a consumer by an attorney representing the consumer in the dispute and in accordance with the West Virginia Rules of Professional Conduct;

(ii) A consumer loan, as defined by §46A-1-102 of this code;

~~(iii) A commercial tort claim, as defined by §46-9-102 of this code~~

~~(iv)~~(iii) A claim under the Workers' Compensation Law, compiled in chapter 23 of this code; or

~~(v)~~(iv) Normal or course of business lending or financing arrangements between an attorney or law firm and a lending institution; or

(v) Nonprofit organizations, provided the nonprofit only use or provide financing, by grant or otherwise, in actions seeking injunctive relief, equitable relief, compensatory damages equal to or below $100,000, or attorney's fees.

NOTE: The purpose of this bill is to define terms, remove commercial tort claims exclusion from definition of litigation financing, and exclude certain non-profit organizations from the definition of litigation financing.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.