

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Substitute for Senate Substitute for Senate Bill No. 181, Page 17- 19,
2 Sections 436.552, Lines 1-55, by deleting all of said lines and inserting in lieu thereof the following:

3
4 "436.552. As used in sections 436.550 to 436.572, the following terms mean:

5 (1) "Advertise", publishing or disseminating any written, electronic, or printed
6 communication or any communication by means of recorded telephone messages or transmitted on
7 radio, television, the internet, or similar communications media, including film strips, motion
8 pictures, and videos, published, disseminated, circulated, or placed before the public, directly or
9 indirectly, for the purpose of inducing a consumer to enter into a consumer legal funding contract;

10 (2) "Affiliate", as defined in section 515.505;

11 (3) "Charges", the amount of moneys to be paid to the consumer legal funding company by
12 or on behalf of the consumer above the funded amount provided by or on behalf of the company to a
13 consumer under sections 436.550 to 436.572. Charges include all administrative, origination,
14 underwriting, or other fees, no matter how denominated;

15 (4) "Consumer", a natural person who has a legal claim and resides or is domiciled in
16 Missouri;

17 (5) "Consumer legal funding company" or "company", a person or entity that enters into a
18 consumer legal funding contract with a consumer for an amount less than five hundred thousand
19 dollars. The term shall not include:

20 (a) An immediate family member of the consumer;

21 (b) A bank, lender, financing entity, or other special purpose entity;

22 a. That provides financing to a consumer legal funding company; or

23 b. To which a consumer legal funding company grants a security interest or transfers any
24 rights or interest in a consumer legal funding; or

25 (c) An attorney or accountant who provides services to a consumer;

26 (6) "Consumer legal funding contract", a nonrecourse contractual transaction in which a
27 consumer legal funding company purchases and a consumer assigns to the company a contingent
28 right to receive an amount of the potential proceeds of a settlement, judgment, award, or verdict
29 obtained in the consumer's legal claim, so long as all of the following apply:

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1 (a) The consumer, at their sole discretion, shall use the funds to address personal needs or
 2 household expenses;

3 (b) The consumer shall not use the funds to pay for attorneys' fees, legal filings, legal
 4 marketing, legal document preparation or drafting, appeals, expert testimony, or other litigation-
 5 related expenses;

6 (7) "Director", the director of the division of finance within the department of commerce
 7 and insurance;

8 (8) "Division", the division of finance within the department of commerce and insurance;

9 (9) "Funded amount", the amount of moneys provided to or on behalf of the consumer in the
 10 consumer legal funding contract. "Funded amount" shall not include charges;

11 (10) "Funding date", the date on which the funded amount is transferred to the consumer by
 12 the consumer legal funding company either by personal delivery, via wire, automated clearing house
 13 transfer, or other electronic means, or by insured, certified, or registered United States mail;

14 (11) "Immediate family member", a parent; sibling; child by blood, adoption, or marriage;
 15 spouse; grandparent; or grandchild;

16 (12) "Legal claim", a bona fide civil claim or cause of action;

17 (13) "Medical provider", any person or business providing medical services of any kind to a
 18 consumer including, but not limited to, physicians, nurse practitioners, hospitals, physical therapists,
 19 chiropractors, or radiologists as well as any of their employees or contractors or any practice groups,
 20 partnerships, or incorporations of the same;

21 (14) "Resolution date", the date the amount funded to the consumer, plus the agreed-upon
 22 charges, is delivered to the consumer legal funding company."; and

23
 24 Further amend said bill, Page 23-26, Section 436.570, Lines 1-94, by deleting all of said lines and
 25 inserting in lieu thereof the following:

26
 27 "436.570. 1. A consumer legal funding company shall not engage in the business of
 28 consumer legal funding in this state unless it has first obtained a license from the division of
 29 finance.

30 2. A consumer legal funding company's initial or renewal license application shall be in
 31 writing, made under oath, and on a form provided by the director.

32 3. Every consumer legal funding company, at the time of filing a license application, shall
 33 pay the sum of five hundred fifty dollars for the period ending the thirtieth day of June next
 34 following the date of payment; thereafter, a like fee shall be paid on or before June thirtieth of each
 35 year and shall be credited to the division of finance fund established under section 361.170.

36 4. A consumer legal funding license shall not be issued unless the division of finance, upon
 37 investigation, finds that the character and fitness of the applicant company, and of the officers and
 38 directors thereof, are such as to warrant belief that the business shall operate honestly and fairly
 39 within the purposes of sections 436.550 to 436.572.

1 5. Every applicant shall also, at the time of filing such application, file a bond satisfactory to
2 the division of finance in an amount not to exceed fifty thousand dollars. The bond shall provide
3 that the applicant shall faithfully conform to and abide by the provisions of sections 436.550 to
4 436.572, to all rules lawfully made by the director under sections 436.550 to 436.572, and the bond
5 shall act as a surety for any person or the state for any and all amount of moneys that may become
6 due or owing from the applicant under and by virtue of sections 436.550 to 436.572, which shall
7 include the result of any action that occurred while the bond was in place for the applicable period
8 of limitations under statute and so long as the bond is not exhausted by valid claims.

9 6. If an action is commenced on a licensee's bond, the director may require the filing of a
10 new bond. Immediately upon any recovery on the bond, the licensee shall file a new bond.

11 7. To ensure the effective supervision and enforcement of sections 436.550 to 436.572, the
12 director may, under chapter 536:

13 (1) Deny, suspend, revoke, condition, or decline to renew a license for a violation of
14 sections 436.550 to 436.572, rules issued under sections 436.550 to 436.572, or order or directive
15 entered under sections 436.550 to 436.572;

16 (2) Deny, suspend, revoke, condition, or decline to renew a license if an applicant or
17 licensee fails at any time to meet the requirements of sections 436.550 to 436.572, or withholds
18 information or makes a material misstatement in an application for a license or renewal of a license;

19 (3) Order restitution against persons subject to sections 436.550 to 436.572 for violations of
20 sections 436.550 to 436.572; and

21 (4) Order or direct such other affirmative action as the director deems necessary.

22 8. Any letter issued by the director and declaring grounds for denying or declining to grant
23 or renew a license may be appealed to the circuit court of Cole County. All other matters presenting
24 a contested case involving a licensee may be heard by the director under chapter 536.

25 9. Notwithstanding the prior approval requirement of subsection 1 of this section, a
26 consumer legal funding company that has applied with the division of finance between the effective
27 date of sections 436.550 to 436.572, or when the division of finance has made applications available
28 to the public, whichever is later, and six months thereafter may engage in consumer legal funding
29 while the license application of the company or an affiliate of the company is awaiting approval by
30 the division of finance and until such time as the applicant has pursued all appellate remedies and
31 procedures for any denial of such application. All funding contracts in effect prior to the effective
32 date of sections 436.550 to 436.572 are not subject to the terms of sections 436.550 to 436.572.

33 10. If it appears to the director that any consumer legal funding company is failing, refusing,
34 or neglecting to make a good faith effort to comply with the provisions of sections 436.550 to
35 436.572, or any laws or rules relating to consumer legal funding, the director may issue an order to
36 cease and desist, which may be enforceable by a civil penalty of not more than one thousand dollars
37 per day for each day that the neglect, failure, or refusal continues. The penalty shall be assessed and
38 collected by the director. In determining the amount of the penalty, the director shall take into

1 account the appropriateness of the penalty with respect to the gravity of the violation, any history of
2 previous violations, and any other matters justice may require.

3 11. If any consumer legal funding company fails, refuses, or neglects to comply with the
4 provisions of sections 436.550 to 436.572, or of any laws or rules relating to consumer legal
5 funding, its license may be suspended or revoked by order of the director after a hearing before said
6 director on any order to show cause why such order of suspension or revocation should not be
7 entered and that specifies the grounds therefor. Such an order shall be served on the particular
8 consumer legal funding company at least ten days prior to the hearing. Any order made and entered
9 by the director may be appealed to the circuit court of Cole County.

10 12. (1) The division shall conduct an examination of each consumer legal funding company
11 at least once every twenty-four months and at such other times as the director may determine.

12 (2) For any such investigation or examination, the director and his or her representatives
13 shall have free and immediate access to the place or places of business and the books and records,
14 and shall have the authority to place under oath all persons whose testimony may be required
15 relative to the affairs and business of the consumer legal funding company.

16 (3) The director may also make such special investigations or examination as the director
17 deems necessary to determine whether any consumer legal funding company has violated any of the
18 provisions of sections 436.550 to 436.572 or rules promulgated thereunder, and the director may
19 assess the reasonable costs of any investigation or examination incurred by the division to the
20 company.

21 13. The division of finance shall have the authority to promulgate rules to carry out the
22 provisions of sections 436.550 to 436.572. Any rule or portion of a rule, as that term is defined in
23 section 536.010, that is created under the authority delegated in this section shall become effective
24 only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable,
25 section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested
26 with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to
27 disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking
28 authority and any rule proposed or adopted after August 28, 2023, shall be invalid and void."; and

29
30 Further amend said bill by amending the title, enacting clause, and intersectional references
31 accordingly.