

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 628
102ND GENERAL ASSEMBLY

0441H.03C

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To amend chapters 361 and 436, RSMo, by adding thereto thirteen new sections relating to consumer activities regulated by the division of finance, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapters 361 and 436, RSMo, are amended by adding thereto thirteen new sections, to be known as sections 361.749, 436.550, 436.552, 436.554, 436.556, 436.558, 436.560, 436.562, 436.564, 436.566, 436.568, 436.570, and 436.572, to read as follows:

- 361.749. 1. As used in this section, unless the context clearly indicates otherwise, the following terms mean:**
- (1) "Commissioner", the commissioner of the division of finance;**
 - (2) "Consumer", any individual;**
 - (3) "Consumer-directed wage access services", the business of offering or providing earned wage access services directly to a consumer based on the consumer's representation and the provider's reasonable determination of the consumer's earned but unpaid income;**
 - (4) "Division", the Missouri division of finance within the department of commerce and insurance;**
 - (5) "Earned but unpaid income", salary, wages, compensation, or other income that a consumer or an employer has represented, and that a provider has reasonably determined, has been earned or has accrued to the benefit of the consumer in exchange for the consumer's provision of services to the employer or on behalf of the employer, including on an hourly, project-based, piecework, or other basis and including where the consumer is acting as an independent contractor of the employer, but has not, at the time of the payment of proceeds, been paid to the consumer by the employer;**

EXPLANATION — Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 **(6) "Earned wage access services", the business of providing consumer-directed**
19 **wage access services, employer-integrated wage access services, or both;**

20 **(7) "Employer":**

21 **(a) A person who employs a consumer; or**

22 **(b) Any other person who is contractually obligated to pay a consumer earned**
23 **but unpaid income in exchange for a consumer's provision of services to the employer or**
24 **on behalf of the employer, including on an hourly, project-based, piecework, or other**
25 **basis and including where the consumer is acting as an independent contractor with**
26 **respect to the employer.**

27

28 **"Employer" does not include a customer of an employer or any other person whose**
29 **obligation to make a payment of salary, wages, compensation, or other income to a**
30 **consumer is not based on the provision of services by that consumer for or on behalf of**
31 **such person;**

32 **(8) "Employer-integrated wage access services", the business of delivering to**
33 **consumers access to earned but unpaid income that is based on employment, income,**
34 **and attendance data obtained directly or indirectly from an employer;**

35 **(9) "Fee":**

36 **(a) A fee imposed by a provider for delivery or expedited delivery of proceeds to**
37 **a consumer;**

38 **(b) A subscription or membership fee imposed by a provider for a bona fide**
39 **group of services that includes earned wage access services; or**

40 **(c) An amount paid by an employer to a provider on a consumer's behalf, which**
41 **entitles the consumer to receive proceeds at reduced or no cost to the consumer.**

42

43 **A voluntary tip, gratuity, or donation shall not be deemed a fee;**

44 **(10) "Outstanding proceeds", a payment of proceeds to a consumer by a**
45 **provider that has not yet been repaid to that provider;**

46 **(11) "Person", a partnership, corporation, association, sole proprietorship,**
47 **limited liability company, or nonprofit or governmental entity;**

48 **(12) "Proceeds", a payment of funds to a consumer by a provider that is based**
49 **on earned but unpaid income;**

50 **(13) "Provider", a person who is in the business of offering and providing**
51 **earned wage access services to consumers.**

52 **2. (1) No person shall engage in the business of earned wage access services in**
53 **this state without first registering as an earned wage access services provider with the**
54 **division.**

55 **(2) The annual registration fee shall be one thousand dollars payable to the**
56 **division as of the first day of July of each year. The division may establish a biennial**
57 **registration arrangement, but in no case shall the registration fee be payable for more**
58 **than one year at a time.**

59 **(3) Registration shall be made on forms prepared by the commissioner and shall**
60 **contain the following information:**

61 **(a) Name, business address, and telephone number of the earned wage access**
62 **services provider;**

63 **(b) Name and business address of corporate officers and directors or principals**
64 **or partners;**

65 **(c) A sworn statement by an appropriate officer, principal, or partner of the**
66 **earned wage access services provider that:**

67 **a. The provider is financially capable of engaging in the business of earned wage**
68 **access services; and**

69 **b. If a corporation, that the corporation is authorized to transact business in this**
70 **state.**

71

72 **If any material change occurs in the information contained in the registration form, a**
73 **revised statement shall be submitted to the commissioner.**

74 **(4) A certificate of registration shall be issued by the commissioner within thirty**
75 **calendar days after the date on which all registration materials have been received by**
76 **the commissioner and shall not be assignable or transferable, except as approved by the**
77 **commissioner.**

78 **(5) Each certificate of registration shall remain in full force and effect until**
79 **surrendered, revoked, or suspended.**

80 **3. This section shall not apply to:**

81 **(1) A bank or savings and loan association whose deposits or accounts are**
82 **eligible for insurance by the Federal Deposit Insurance Corporation, or a subsidiary of**
83 **such a bank or savings and loan association;**

84 **(2) A credit union doing business in this state; or**

85 **(3) A person authorized to make loans or extensions of credit under the laws of**
86 **this state or the United States, who is subject to regulation and supervision by this state**
87 **or the United States.**

88 **4. Each provider shall:**

89 **(1) Develop and implement policies and procedures to respond to questions**
90 **raised by consumers and address complaints from consumers in an expedient manner;**

91 **(2) Before entering into an agreement with a consumer for the provision of**
92 **earned wage access services, provide a consumer with a written paper or electronic**
93 **document, which can be included as part of the contract to provide earned wage access**
94 **services and which meets all of the following requirements:**

95 **(a) Informs the consumer of his or her rights under the agreement; and**

96 **(b) Fully and clearly discloses all fees associated with the earned wage access**
97 **services;**

98 **(3) Inform the consumer of the fact of any material changes to the terms and**
99 **conditions of the earned wage access services before implementing those changes for**
100 **that consumer;**

101 **(4) Provide proceeds to a consumer by any means mutually agreed upon by the**
102 **consumer and provider;**

103 **(5) Comply with all local, state, and federal privacy and information security**
104 **laws;**

105 **(6) In any case in which the provider will seek repayment of outstanding**
106 **proceeds, fees, or other payments, including voluntary tips, gratuities, or other**
107 **donations from a consumer's account at a depository institution and including via**
108 **electronic funds transfer:**

109 **(a) Comply with applicable provisions of the federal Electronic Funds Transfer**
110 **Act and its implementing regulations; and**

111 **(b) Reimburse the consumer for the full amount of any overdraft or**
112 **nonsufficient funds fees imposed on a consumer by the consumer's depository**
113 **institution that were caused by the provider attempting to seek payment of any**
114 **outstanding proceeds, fees, voluntary tips, gratuities, or other donations on a date**
115 **before, or in an incorrect amount from, the date or amount disclosed to the consumer.**
116

117 **The provisions of this subdivision shall not apply with respect to payments of**
118 **outstanding proceeds, fees, tips, gratuities, or other donations incurred by a consumer**
119 **through fraudulent or other means; and**

120 **(7) If a provider solicits, charges, or receives a tip, gratuity, or donation from a**
121 **consumer:**

122 **(a) Clearly and conspicuously disclose to the consumer immediately prior to**
123 **each transaction that a tip, gratuity, or donation amount may be zero and is voluntary;**

124 **(b) Clearly and conspicuously disclose in its service contract with the consumer**
125 **and elsewhere that tips, gratuities, or donations are voluntary and that the offering of**
126 **earned wage access services, including the amount of the proceeds a consumer is eligible**
127 **to request and the frequency with which proceeds are provided to a consumer, is not**

128 contingent on whether the consumer pays any tip, gratuity, or donation or on the size of
129 any tip, gratuity, or donation;

130 (c) Refrain from misleading or deceiving consumers about the voluntary nature
131 of such tips, gratuities, or donations; and

132 (d) Refrain from making representations that tips or gratuities will benefit any
133 specific, individual person.

134 5. A provider shall not:

135 (1) Share with an employer any fees, voluntary tips, gratuities, or other
136 donations that were received from or charged to a consumer for earned wage access
137 services;

138 (2) Charge interest for failure to repay outstanding proceeds, fees, voluntary
139 tips, gratuities, or other donations;

140 (3) Report any information about the consumer regarding the inability of the
141 provider to be repaid outstanding proceeds, fees, voluntary tips, gratuities, or other
142 donations to a consumer credit reporting agency or a debt collector;

143 (4) Require a consumer's credit report or credit score to determine a consumer's
144 eligibility for earned wage access services;

145 (5) Accept payment from a consumer of outstanding proceeds, fees, voluntary
146 tips, gratuities, or other donations via credit card or charge card; or

147 (6) Compel or attempt to compel repayment by a consumer of outstanding
148 proceeds, fees, voluntary tips, gratuities, or other donations through any of the following
149 means:

150 (a) A suit against the consumer in a court of competent jurisdiction;

151 (b) Use of a third party to pursue collection from the consumer on the provider's
152 behalf; or

153 (c) Sale of outstanding amounts to a third-party collector or debt buyer for
154 collection from the consumer.

155

156 The provisions of this subdivision shall not apply to payments of outstanding proceeds,
157 fees, tips, gratuities, or other donations incurred by a consumer through fraudulent or
158 other means or preclude a provider from pursuing an employer for breach of its
159 contractual obligations to the provider.

160 6. For purposes of the laws of this state:

161 (1) Earned wage access services offered and provided by a registered provider
162 shall not be considered to be any of the following:

163 (a) A violation of or noncompliance with the laws governing the sale or
164 assignment of or an order for earned but unpaid income;

165 (b) A loan or other form of credit, and the provider shall not be considered a
166 creditor or a lender;

167 (c) Money transmission, and the provider shall not be considered a money
168 transmitter;

169 (2) Fees, voluntary tips, gratuities, or other donations shall not be considered
170 interest or finance charges.

171 7. The commissioner, or his or her duly authorized representative, may make
172 such investigation as is deemed necessary and, to the extent necessary for this purpose,
173 may examine the registrant or any other person having personal knowledge of the
174 matters under investigation, and shall have the power to compel the production of all
175 relevant books, records, accounts, and documents by registrants.

176 8. (1) An earned wage access services provider shall maintain records of its
177 earned wage access services transactions and shall preserve its records for at least two
178 years after the final date on which it provides proceeds to a consumer.

179 (2) Records required by this section may be maintained electronically.

180 9. The division may promulgate rules as may be necessary for the administration
181 of this section. Any rule or portion of a rule, as that term is defined in section 536.010,
182 that is created under the authority delegated in this section shall become effective only if
183 it complies with and is subject to all of the provisions of chapter 536 and, if applicable,
184 section 536.028. This section and chapter 536 are nonseverable and if any of the powers
185 vested with the general assembly pursuant to chapter 536 to review, to delay the
186 effective date, or to disapprove and annul a rule are subsequently held unconstitutional,
187 then the grant of rulemaking authority and any rule proposed or adopted after August
188 28, 2023, shall be invalid and void.

189 10. (1) Any provider registered pursuant to this section who fails, refuses, or
190 neglects to comply with the provisions of this section or commits any criminal act may
191 have its registration suspended or revoked by the commissioner, after a hearing before
192 the commissioner on an order of the commissioner to show cause why such order of
193 suspension or revocation should not be entered specifying the grounds therefor, which
194 shall be served on the registrant at least ten days prior to the hearing.

195 (2) Whenever it shall appear to the commissioner that any provider registered
196 pursuant to this section is failing, refusing, or neglecting to make a good faith effort to
197 comply with the provisions of this section, the commissioner may issue an order to cease
198 and desist, which order may be enforceable by a civil penalty of not more than one
199 thousand dollars per day for each day that the neglect, failure, or refusal shall continue.
200 The penalty shall be assessed and collected by the commissioner. In determining the
201 amount of the penalty, the commissioner shall take into account the appropriateness of

202 the penalty with respect to the gravity of the violation, the history of previous violations,
203 and such other matters as justice may require.

204 11. All revenues collected by or paid to the commissioner pursuant to this section
205 shall be forwarded immediately to the director of revenue, who shall deposit them in the
206 division of finance fund.

207 12. Any earned wage access services provider knowingly and willfully violating
208 the provisions of this section shall be guilty of a class A misdemeanor.

209 13. If there is a conflict between the provisions of this section and any other state
210 statute, the provisions of this section shall control.

436.550. Sections 436.550 to 436.572 shall be known and may be cited as the
2 "Consumer Legal Funding Act".

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

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

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

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

14 (4) "Commissioner", the commissioner of the division of finance within the
15 department of commerce and insurance;

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

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

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

22 (b) A bank, lender, financing entity, or other special purpose entity:

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

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

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

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

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

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

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

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

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

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

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

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

54 (14) "Resolution date", the date the amount funded to the consumer, plus the
55 agreed-upon charges, is delivered to the consumer legal funding company.

436.554. 1. All consumer legal funding contracts shall meet the following
2 requirements:

3 (1) The contract shall be completely filled in when presented to the consumer for
4 signature;

5 (2) The contract shall contain, in bold and boxed type, a right of rescission
6 allowing the consumer to cancel the contract without penalty or further obligation if,
7 within ten business days after the funding date, the consumer either:

8 **(a) Returns the full amount of the disbursed funds to the consumer legal funding**
9 **company by delivering the company's uncashed check to the company's office in person;**
10 **or**

11 **(b) Mails a notice of cancellation by insured, certified, or registered United**
12 **States mail to the address specified in the contract and includes a return of the full**
13 **amount of disbursed funds in such mailing in the form of the company's uncashed check**
14 **or a registered or certified check or money order;**

15 **(3) The contract shall contain the initials of the consumer on each page; and**

16 **(4) The contract shall require the consumer to give nonrevocable written**
17 **direction to the consumer's attorney requiring the attorney to notify the consumer legal**
18 **funding company when the legal claim has been resolved. Once the consumer legal**
19 **funding company confirms in writing the amount due under the contract, the**
20 **consumer's attorney shall pay, from the proceeds of the resolution of the legal claim,**
21 **the consumer legal funding company the amount due within ten business days.**

22 **2. The consumer legal funding company shall provide the consumer's attorney**
23 **with a written notification of the consumer legal funding contract provided to the**
24 **consumer within three business days of the funding date by way of postal mail, courier**
25 **service, facsimile, or other means of proof of delivery method.**

26 **3. A consumer legal funding contract shall be entered into only if the contract**
27 **involves an existing legal claim in which the consumer is represented by an attorney.**

436.556. No consumer legal funding company shall:

2 **(1) Pay or offer to pay commissions, referral fees, or other forms of**
3 **consideration to any attorney, law firm, medical provider, chiropractor, or physical**
4 **therapist or any of their employees for referring a consumer to the company;**

5 **(2) Accept any commissions, referral fees, rebates, or other forms of**
6 **consideration from an attorney, law firm, medical provider, chiropractor, or physical**
7 **therapist or any of their employees;**

8 **(3) Intentionally advertise materially false or misleading information regarding**
9 **its products or services;**

10 **(4) Refer, in furtherance of an initial legal funding, a customer or potential**
11 **customer to a specific attorney, law firm, medical provider, chiropractor, or physical**
12 **therapist or any of their employees. However, the company may refer the customer to a**
13 **local or state bar association referral service if a customer needs legal representation;**

14 **(5) Fail to promptly supply a copy of the executed contract to the consumer's**
15 **attorney;**

16 **(6) Knowingly provide funding to a consumer who has previously assigned or**
17 **sold a portion of the right to proceeds from the consumer's legal claim unless the**

18 consumer legal funding company pays or purchases the entire unsatisfied funded
19 amount and contracted charges from the prior consumer legal funding company or the
20 two companies agree to a lesser amount in writing. However, multiple companies may
21 agree to contemporaneously provide funding to a consumer, provided that the consumer
22 and the consumer's attorney consent to the arrangement in writing;

23 (7) Receive any right to or make any decisions with respect to the conduct of the
24 underlying legal claim or any settlement or resolution thereof. The right to make such
25 decisions shall remain solely with the consumer and the attorney in the legal claim;

26 (8) Knowingly pay or offer to pay for court costs, filing fees, or attorney's fees
27 either during or after the resolution of the legal claim by using funds from the consumer
28 legal funding contract. The consumer legal funding contract shall include a provision
29 advising the consumer that the funding shall not be used for such costs or fees; or

30 (9) Sell a consumer litigation funding contract in whole or in part to a third
31 party. However, if the consumer legal funding company retains responsibility for
32 collecting payment, administering, and otherwise enforcing the consumer legal funding
33 contract, the provisions of this subdivision shall not apply to any of the following:

34 (a) An assignment to a wholly owned subsidiary of the consumer legal funding
35 company;

36 (b) An assignment to an affiliate of the consumer legal funding company that is
37 under common control;

38 (c) The granting of a security interest under Article 9 of the Uniform
39 Commercial Code, or as otherwise permitted by law.

436.558. 1. The contracted amount to be paid to the consumer legal funding
2 company shall be set as a predetermined amount based upon intervals of time from the
3 funding date to the resolution date and shall not be determined as a percentage of the
4 recovery from the legal claim.

5 2. No consumer legal funding contract shall be valid if its terms exceed a period
6 of forty-eight months. No consumer legal funding contract shall be automatically
7 renewed.

436.560. All consumer legal funding contracts shall contain the disclosures
2 specified in this section, which shall constitute material terms of the contract. Unless
3 otherwise specified, the disclosures shall be typed in at least twelve-point bold-type font
4 and be placed clearly and conspicuously within the contract, as follows:

5 (1) On the front page under appropriate headings, language specifying:

6 (a) The funded amount to be paid to the consumer by the consumer legal
7 funding company;

8 (b) An itemization of one-time charges;

9 (c) The total amount to be assigned by the consumer to the company, including
10 the funded amount and all charges; and

11 (d) A payment schedule to include the funded amount and charges, listing all
12 dates and the amount due at the end of each six-month period from the funding date
13 until the date the maximum amount due to the company by the consumer to satisfy the
14 amount due pursuant to the contract;

15 (2) Within the body of the contract, in accordance with the provisions under
16 subdivision (2) of subsection 1 of section 436.554: "Consumer's Right to Cancellation:
17 You may cancel this contract without penalty or further obligation within ten business
18 days after the funding date if you either:

19 (a) Return the full amount of the disbursed funds to the consumer legal funding
20 company by delivering the company's uncashed check to the company's office in person;
21 or

22 (b) Mail a notice of cancellation by insured, certified, or registered United States
23 mail to the company at the address specified in the contract and include a return of the
24 full amount of disbursed funds in such mailing in the form of the company's uncashed
25 check or a registered or certified check or money order.";

26 (3) Within the body of the contract, a statement that the company has no
27 influence over any aspect of the consumer's legal claim or any settlement or resolution
28 of the consumer's legal claim and that all decisions related to the consumer's legal claim
29 remain solely with the consumer and the consumer's attorney;

30 (4) Within the body of the contract, in all capital letters and in at least twelve-
31 point bold-type font contained within a box: "THE FUNDED AMOUNT AND
32 AGREED-UPON CHARGES SHALL BE PAID ONLY FROM THE PROCEEDS OF
33 YOUR LEGAL CLAIM AND SHALL BE PAID ONLY TO THE EXTENT THAT
34 THERE ARE AVAILABLE PROCEEDS FROM YOUR LEGAL CLAIM. IF THERE
35 IS NO RECOVERY OF ANY DAMAGES FROM YOUR LEGAL CLAIM OR IF
36 THERE IS NOT ENOUGH MONEY TO PAY BACK THE CONSUMER LEGAL
37 FUNDING COMPANY IN FULL, YOU WILL NOT BE OBLIGATED TO PAY THE
38 CONSUMER LEGAL FUNDING COMPANY ANYTHING IN EXCESS OF YOUR
39 RECOVERY UNLESS YOU HAVE VIOLATED THIS CONTRACT. YOU WILL
40 NOT OWE (INSERT NAME OF THE CONSUMER LEGAL FUNDING COMPANY)
41 ANYTHING IF THERE ARE NO PROCEEDS FROM YOUR LEGAL CLAIM
42 UNLESS YOU OR YOUR ATTORNEY HAVE VIOLATED ANY MATERIAL TERM
43 OF THIS CONTRACT OR UNLESS YOU HAVE COMMITTED FRAUD AGAINST
44 THE CONSUMER LEGAL FUNDING COMPANY."; and

45 **(5) Located immediately above the place on the contract where the consumer's**
46 **signature is required, in twelve-point font: "Do not sign this contract before you read it**
47 **completely or if it contains any blank spaces. You are entitled to a completely filled-in**
48 **copy of the contract. Before you sign this contract, you should obtain the advice of an**
49 **attorney. Depending on the circumstances, you may want to consult a tax, public or**
50 **private benefits planning, or financial professional. You acknowledge that your**
51 **attorney in the legal claim has provided no tax, public or private benefit planning, or**
52 **financial advice regarding this transaction."**

436.562. 1. Nothing in sections 436.550 to 436.572 shall be construed to restrict
2 **the exercise of powers or the performance of the duties of the state attorney general that**
3 **he or she is authorized to exercise or perform by law.**

4 **2. If a court of competent jurisdiction determines that a consumer legal funding**
5 **company has intentionally violated the provisions of sections 436.550 to 436.572 in a**
6 **consumer legal funding contract, the consumer legal funding contract shall be voided.**

436.564. 1. The contingent right to receive an amount of the potential proceeds
2 **of a legal claim is assignable.**

3 **2. Nothing contained in sections 436.550 to 436.572 shall be construed to cause**
4 **any consumer legal funding contract conforming to sections 436.550 436.572 to be**
5 **deemed a loan or to be subject to any of the provisions governing loans. A consumer**
6 **legal funding contract that complies with sections 436.550 to 436.572 is not subject to**
7 **any other statutory or regulatory provisions governing loans or investment contracts.**
8 **To the extent that sections 436.550 to 436.572 conflict with any other law, such sections**
9 **shall supersede the other law for the purposes of regulating consumer legal funding in**
10 **this state.**

11 **3. Only attorney's liens related to the legal claim, Medicare, or other statutory**
12 **liens related to the legal claim shall take priority over claims to proceeds from the**
13 **consumer legal funding company. All other liens and claims shall take priority by**
14 **normal operation of law.**

15 **4. No consumer legal funding company shall report a consumer to a credit**
16 **reporting agency if insufficient funds remain from the net proceeds to repay the**
17 **company.**

436.566. An attorney or law firm retained by the consumer in the legal claim
2 **shall not have a financial interest in the consumer legal funding company offering**
3 **consumer legal funding to that consumer. Additionally, any practicing attorney who has**
4 **referred the consumer to his or her retained attorney shall not have a financial interest**
5 **in the consumer legal funding company offering consumer legal funding to that**
6 **consumer.**

436.568. No communication between the consumer's attorney in the legal claim and the consumer legal funding company necessary to ascertain the status of a legal claim or a legal claim's expected value shall be discoverable by a party with whom the claim is filed or against whom the claim is asserted. This section does not limit, waive, or abrogate the scope or nature of any statutory or common-law privilege, including the work-product doctrine and attorney-client privilege.

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

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

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

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

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

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

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

30 **(1) Deny, suspend, revoke, condition, or decline to renew a license for a violation**
31 **of sections 436.550 to 436.572, rules issued under sections 436.550 to 436.572, or order or**
32 **directive entered under sections 436.550 to 436.572;**

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

37 **(3) Order restitution against persons subject to sections 436.550 to 436.572 for**
38 **violations of sections 436.550 to 436.572; and**

39 **(4) Order or direct such other affirmative action as the commissioner deems**
40 **necessary.**

41 **8. Any letter issued by the commissioner and declaring grounds for denying or**
42 **declining to grant or renew a license may be appealed to the circuit court of Cole**
43 **County. All other matters presenting a contested case involving a licensee may be heard**
44 **by the commissioner under chapter 536.**

45 **9. Notwithstanding the prior approval requirement of subsection 1 of this**
46 **section, a consumer legal funding company that has applied with the division of finance**
47 **between the effective date of sections 436.550 to 436.572, or when the division of finance**
48 **has made applications available to the public, whichever is later, and six months**
49 **thereafter may engage in consumer legal funding while the license application of the**
50 **company or an affiliate of the company is awaiting approval by the division of finance**
51 **and until such time as the applicant has pursued all appellate remedies and procedures**
52 **for any denial of such application. All funding contracts in effect prior to the effective**
53 **date of sections 436.550 to 436.572 are not subject to the terms of sections 436.550 to**
54 **436.572.**

55 **10. If it appears to the commissioner that any consumer legal funding company**
56 **is failing, refusing, or neglecting to make a good faith effort to comply with the**
57 **provisions of sections 436.550 to 436.572, or any laws or rules relating to consumer legal**
58 **funding, the commissioner may issue an order to cease and desist, which may be**
59 **enforceable by a civil penalty of not more than one thousand dollars per day for each**
60 **day that the neglect, failure, or refusal continues. The penalty shall be assessed and**
61 **collected by the commissioner. In determining the amount of the penalty, the**
62 **commissioner shall take into account the appropriateness of the penalty with respect to**
63 **the gravity of the violation, any history of previous violations, and any other matters**
64 **justice may require.**

65 **11. If any consumer legal funding company fails, refuses, or neglects to comply**
66 **with the provisions of sections 436.550 to 436.572, or of any laws or rules relating to**

67 consumer legal funding, its license may be suspended or revoked by order of the
68 commissioner after a hearing before said commissioner on any order to show cause why
69 such order of suspension or revocation should not be entered and that specifies the
70 grounds therefor. Such an order shall be served on the particular consumer legal
71 funding company at least ten days prior to the hearing. Any order made and entered by
72 the commissioner may be appealed to the circuit court of Cole County.

73 12. (1) The division shall conduct an examination of each consumer funding
74 company at least once every twenty-four months and at such other times as the
75 commissioner may determine.

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

81 (3) The commissioner may also make such special investigations or examination
82 as the commissioner deems necessary to determine whether any consumer legal funding
83 company has violated any of the provisions of sections 436.550 to 436.572 or rules
84 promulgated thereunder, and the commissioner may assess the reasonable costs of any
85 investigation or examination incurred by the division to the company.

86 13. The division of finance shall have the authority to promulgate rules to carry
87 out the provisions of sections 436.550 to 436.572. Any rule or portion of a rule, as that
88 term is defined in section 536.010, that is created under the authority delegated in this
89 section shall become effective only if it complies with and is subject to all of the
90 provisions of chapter 536 and, if applicable, section 536.028. This section and chapter
91 536 are nonseverable and if any of the powers vested with the general assembly
92 pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul
93 a rule are subsequently held unconstitutional, then the grant of rulemaking authority
94 and any rule proposed or adopted after August 28, 2023, shall be invalid and void.

 436.572. A consumer legal funding contract is a fact subject to the usual rules of
2 discovery.

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