

**Statement of the National Association of Mutual Insurance Companies to the  
House Corporations Committee Regarding H-7521, An Act Relating to  
Courts and Civil Procedure – Litigation Lending Agreements  
April 3, 2012**

I am pleased to present the views of the National Association of Mutual Insurance Companies regarding H-7521, An Act Relating to Courts and Civil Procedure – Litigation Lending Agreements. NAMIC is the largest and most diverse national property/casualty insurance trade and political advocacy association in the United States. Its 1,400 member companies write all lines of property/casualty insurance business and include small, single-state, regional, and national carriers accounting for 50 percent of the automobile/ homeowners market. More than 80 NAMIC member companies do business in Rhode Island, including eight companies domiciled in the state.

NAMIC has recognized the growth of third-party litigation funding as a matter of significant concern that could profoundly affect the civil justice system. Last year, NAMIC published a public policy paper, “Third-Party Litigation Funding: Tipping the Scales of Justice for Profit,” which critically examined the business of litigation funding, identified various forms of third-party litigation funding, and analyzed its effect on attorneys, plaintiffs, defendants, insurers, and the civil litigation system as a whole. The paper found that the growth of third party litigation funding could “radically change the legal landscape and the civil justice system in ways that are mostly negative,” and concluded that the practice could reasonably be expected to increase that amount of litigation and ultimately result in higher insurance premiums.

The paper concluded that “sufficient grounds exist for enacting a blanket prohibition against the practice of third-party litigation funding.” Failing that, the paper encourages policymakers to consider adopting measures that would limit litigation funding’s most harmful legal and economic effects. The paper recommends provisions be included in legislation intended to regulate litigation funding to: prohibit the use of third-party funding in class action or mass tort litigation; limit the repayment amount to a percentage of the net recovery; prohibit attorneys from having financial interest in a litigation funding company; restrict litigation funding companies from exerting influence over a plaintiff’s decision to settle or to otherwise direct the course of the litigation; and disclose the existence of any third-party funding arrangement should be to all parties to the lawsuit and the court.

Where H-7521 seeks to place litigation funding within the scope of the state’s usury laws and thereby limit interest to reasonable amounts, NAMIC would view the bill as a welcome first step but would also encourage Committee members to consider additional provisions as outlined above.

NAMIC’s paper is available at [www.namic.org/pdf/publicpolicy/1106\\_thirdPartyLitigation.pdf](http://www.namic.org/pdf/publicpolicy/1106_thirdPartyLitigation.pdf) and I would be happy to provide Committee members with printed copies. Thank you for your consideration of NAMIC’s views on this important matter.

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