

Federal Legislation Introduced to Require Disclosure of Litigation Funding in Civil Lawsuits



Rep. Darrell Issa (R-Cal.) has introduced new federal legislation aimed at mandating transparency in litigation funding within civil lawsuits. The proposed law seeks to compel all named parties in a lawsuit to disclose any financial backers who have a stake in the outcome of the case. The bill would also require that all relevant funding agreements be shared among the parties involved.

Purpose and Scope of the Legislation

The bill targets what Issa describes as persistent abuse within the legal system, seeking to bring greater transparency and fairness to civil litigation. Issa's goal is to ensure that if a third-party investor is funding a lawsuit in federal court, this information should be disclosed to all parties. According to Issa, such transparency would promote fairness, discourage misuse of the legal system, and ensure that all parties involved are fully aware of the financial dynamics behind a case.

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Issa said, "Our legislation targets serious and continuing abuses in our litigation system and achieves a standard of transparency that people deserve and our standard of law requires."

The Growing Litigation Finance Industry

Litigation financing, where investors fund lawsuits in exchange for a portion of any settlement or award, is a growing \$15.2 billion industry. While proponents argue that it provides resources to plaintiffs who might otherwise lack access to justice, critics claim it encourages frivolous lawsuits and increases legal costs. State and federal legislators have called for more stringent regulation, particularly in terms of disclosure of financial arrangements tied to lawsuits.

Exceptions and Requirements of the Bill

Issa's proposed bill allows some exceptions, such as the repayment of principal loans or loans with interest up to 7%, as well as attorney fee reimbursements. The key requirement is that any funding agreement related to the lawsuit must be disclosed within 10 days of the agreement's execution.

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Political Challenges and Legislative History

The passage of this bill is uncertain due to the divided nature of Congress, with upcoming elections and the subsequent lame-duck session further complicating its prospects. This is not the first time lawmakers have sought to regulate litigation finance. Previous legislative attempts—like those led by Sens. Joe Manchin (I-W. Va.), John Kennedy (R-La.), and Chuck Grassley (R-Iowa)—have stalled or failed to gain traction. Despite these setbacks, states like Louisiana, Indiana, and West Virginia have already enacted their own regulations to oversee the industry.

Congressional Hearings and the Push for Transparency

Issa chaired a House Judiciary Committee hearing in June, during which concerns over litigation finance were raised. Witnesses, including former Rep. Bob Goodlatte (R-Va.), highlighted national security risks and questioned whether litigation funders were wielding excessive control over lawsuits. Issa emphasized that the hearing showed a consensus on the need for greater transparency and said, "I believe that we've agreed that in fact, more transparency at a base level needs to be there."

Future of Litigation Finance Legislation

Following the June hearings, Issa introduced a discussion draft that laid the groundwork for the current bill. While the proposed legislation has garnered attention, its future remains uncertain given the political landscape. However, with growing scrutiny of the litigation finance industry and support from entities like the U.S. Chamber of Commerce, the debate over regulation and disclosure is likely to continue.

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