

L I C E N S I N G D I V I S I O N

- Athlete Agent • Collection Agency • Debt Management •
- Private Detectives • Non-Recourse Civil Litigation Funding Companies •
- Truth & Deception Examiners •

JOHN A. GALE
Secretary of State

DAVID L. WILSON JR.
Licensing Director

MEMORANDUM

Date: April 6, 2016
Re: Annual Report to Legislature: Non-Recourse Civil Litigation Funding
To: Clerk of the Legislature and Judiciary Committee
From: John A. Gale, Secretary of State

INTRODUCTION

Nonrecourse Civil Litigation Act, LB1094 of the One Hundred First Legislative Session, was signed by the Governor and became law on April 13, 2010, with an effective date of June 15, 2010. Neb. Rev. Stat. §25-3301 through §25-3309. As described by Senator Lathrop during the Judiciary Committee meeting held on February 11, 2010, Nonrecourse Civil Litigation Funding has always been legal in Nebraska but was unregulated before the introduction of this bill. The renewal year for Nonrecourse Civil Litigation Funding Companies ("CLFCs") runs from October 1 through September 30.

NATURE OF THE BUSINESS

After a catastrophic injury many consumers find themselves without the means to sustain their basic needs while their legal claim for damages is pending. CLFCs advance funds to consumers in return for an assignment of the claim that is currently being litigated. CLFCs evaluate the future worth of the consumers claim and advance money based on that calculation. Funds are only repaid if the consumer is awarded a monetary judgment.

STATUS OF THE STATE REGISTRATION PROGRAM

Only three (3) companies are currently registered as CLFCs. They are based out of state and are:

1. Covered Bridge Capital, LLC, 830 Penllyn Blue Bell Pike, Blue Bell, PA 19422
2. Preferred Capital Funding - Nebraska, LLC, 368 W. Huron Street, Ste. 4s, Chicago, IL 60654
3. Oasis Legal Finance, LLC, 40 N. Skokie Blvd., Suite 500, Northbrook, IL 60062

The Secretary's Licensing Division sent out renewal applications in September 2015. Preferred Capital Funding – Nebraska, LLC was newly licensed at the end of the reporting period and, therefore, had no fundings to report. Attached to the renewal application was a form for the Annual Report of Activity in Nebraska for each company to submit data mandated by Neb. Rev. Stat. §25-3309. The five data points are shown in the attached spreadsheet.

As reported by the registered CLFCs, \$351,658 was advanced to 161 Nebraska consumers and 47 consumers will be expected to repay. Some of those cases on which funds were advanced were settled, paid, waived or written off during 2014-2015. From the information provided a total of \$50,557 was written off as a loss and 13 cases were settled for less than the company contracted.

Annual Percentage Fee

The annual percentage fee being charged by CLFCs to Nebraska consumers ranges from 16.75% to 112.47%. Each company gave a different annual percentage fee which is shown on the attached spreadsheet. Other itemized fees being charged include an origination fee and a delivery fee.

2015 Annual Report for Non-Recourse Civil Litigation (August 2014-September 2015)	Covered Bridge Capital, LLC	Preferred Capital Funding Neb	Oasis Legal Finance, LLC	Totals:
Total number of nonrecourse civil litigation fundings originated in Nebraska for the period September 1, 2013 to August 31, 2014 (the "Reporting Period"):	5	0	156	161
Total value (dollar amount) of nonrecourse civil litigation fundings originated in Nebraska for the Reporting Period:	\$28,600.00	0	\$323,058.00	\$351,658.00
Total number of nonrecourse civil litigation fundings, regardless of year funded since June 15, 2010 (the "Funding Period"), required to be repaid during the Reporting Period:	3	0	44	47
The amount charged to the consumer, including, but not limited, the annual percentage fee[i] charged to the consumer and the itemized fees charged to the consumer in Nebraska during the Funding Period for fundings which were resolved during the Reporting Period	Total Fees Charged = \$1,689.03; Annual Percentage Fee = 16.75%	0	Itemized Fees = \$36,017; Annual Percentage Fee = 112.47%	Annual Percentage Fee= 16.75% to 112.47%
The number of cases, funded during the Funding Period, closed during the Reporting Period in which the realization to the civil litigation funding company was less than contracted and the total dollar amount of such losses:	1 closed case, No loss of principal (\$15,000 was advanced and \$15,000 was repaid) but loss due to cost of funds and sales commission)	0	12 cases for a \$50,557 loss	13 Closed Cases for a cumulative loss of \$50,557

[i] Annual Percentage Fee shall be calculated as follows:

Total Fees Charged (The total amount collected during the Reporting Period for transactions Funded") funded during the Funding Period minus the "Total Amount

divided by

Total Amount Funded (The total amount funded for all transactions funded during the Funding Period that were resolved during the Reporting Period)

divided by

Average Number of Days of Term (for all transactions resolved during the Reporting Period)

multiplied by

365

multiplied by 100 (to put the decimal in the correct place)

Example

13,288 (**Total Fees Charged**)

divided by

23,430 (**Total Funded**)

divided by

390.55 (**Average Number of Days of Term**)

multiplied by

365

multiplied by

100

Average Annual Percentage Fee = 53%

13,288 (Total Fees Charged) ÷ 23,430 (Total Funded) ÷ 390.55 (Average Number of Days of Term) x 365 x 100 = 53%