
Detailed Fiscal Analysis

Overview

This bill sets forth requirements governing nonrecourse civil litigation advance contracts. These are contracts in which a company makes a cash payment to a consumer who has a pending civil claim or action in exchange for the right to receive an amount out of the proceeds of any realized settlement award. Repayment of the advance is only required if a case is won or an out-of-court settlement is reached. Nonrecourse advances carry a risk premium – effectively an amount of money paid to the finance company in addition to the funds already advanced. These advances are typically more expensive than a bank loan since they are not required to be repaid if the claimant does not receive a payment from the defendant.

Fiscal effects

While the bill would authorize legal finance companies and nonrecourse advance contracts, it provides no specific state governing authority for regulating such contracts. It is highly unlikely that the Office of the Attorney General (AGO) would assist a consumer with a complaint concerning these contracts since (1) AGO does not provide investigative and filing assistance to individual consumers, and (2) there is a substantial likelihood that a consumer with a pending claim involving money coming out of a pending lawsuit is already represented by counsel. Consequently, the bill would not likely impose any new direct fiscal effect on the state.

The only legal recourse available to a consumer injured by a violation of the bill's requirements would be to file a civil action in a county or municipal court. It is uncertain how many actions may be filed in the case of breach of contract, failure to provide a right to cancel or some other statutory violation involving these contracts, but it is likely that filing fee revenue and court costs would offset any increase in civil adjudication costs that county or municipal courts might incur.

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