(127th General Assembly)
(Substitute House Bill Number 248)

AN ACT

To enact section 1349.55 of the Revised Code to set forth requirements governing non-recourse civil litigation advance contracts.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That section 1349.55 of the Revised Code be enacted to read as follows:

Sec. 1349.55. (A) As used in this section:

(1) "Non-recourse civil litigation advance" means a transaction 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, judgment, award, or verdict the consumer may receive in the civil lawsuit.

(2) "Company" means a person or entity that enters into a non-recourse civil litigation advance transaction with a consumer.

(3) "Consumer" means a person or entity residing or domiciled in Ohio and represented by an attorney with a pending civil claim or action.

(B) All contracts for a non-recourse civil litigation advance shall comply with the following requirements:

(1) The contract shall be completely filled in and contain on the front page, appropriately headed and in at least twelve-point bold type, the following disclosures:

(a) The total dollar amount to be advanced to the consumer;

(b) An itemization of one-time fees;

(c) The total dollar amount to be repaid by the consumer, in six-month intervals for thirty-six months, and including all fees;

(d) The annual percentage rate of return, calculated as of the last day of each six-month interval, including frequency of compounding.

(2) The contract shall provide that the consumer may cancel the contract within five business days following the consumer's receipt of funds, without penalty or further obligation. The contract shall contain the following notice written in a clear and conspicuous manner: "CONSUMER'S RIGHT TO CANCELLATION: YOU MAY CANCEL THIS CONTRACT WITHOUT

PENALTY OR FURTHER OBLIGATION WITHIN FIVE BUSINESS DAYS FROM THE DATE YOU RECEIVE FUNDING FROM [insert name of company]." The contract also shall specify that in order for the cancellation to be effective, the consumer must either return to the company the full amount of disbursed funds by delivering the company's uncashed check to the company's offices in person, within five business days of the disbursement of funds, or mail a notice of cancellation and include in that mailing a return of the full amount of disbursed funds in the form of the company's uncashed check, or a registered or certified check or money order, by insured, registered or certified United States mail, postmarked within five business days of receiving funds from the company, at the address specified in the contract for the cancellation.

(3) The contract shall contain the following statement in at least twelve-point boldface type: "THE COMPANY AGREES THAT IT SHALL HAVE NO RIGHT TO AND WILL NOT MAKE ANY DECISIONS WITH RESPECT TO THE CONDUCT OF THE UNDERLYING CIVIL ACTION OR CLAIM OR ANY SETTLEMENT OR RESOLUTION THEREOF AND THAT THE RIGHT TO MAKE THOSE DECISIONS REMAINS SOLELY WITH YOU AND YOUR ATTORNEY IN THE CIVIL ACTION OR CLAIM."

(4) The contract shall contain the initials of the consumer on each page.

(5) The contract shall contain the following statement in at least twelve-point boldface type located immediately above the place on the contract where the consumer's signature is required: "DO NOT SIGN THIS CONTRACT BEFORE YOU READ IT COMPLETELY OR IF IT CONTAINS ANY BLANK SPACES. YOU ARE ENTITLED TO A COMPLETELY FILLED IN COPY OF THIS CONTRACT. BEFORE YOU SIGN THIS CONTRACT YOU SHOULD OBTAIN THE ADVICE OF AN ATTORNEY. DEPENDING ON THE CIRCUMSTANCES, YOU MAY WANT TO CONSULT A TAX, PUBLIC OR PRIVATE BENEFIT PLANNING, OR FINANCIAL PROFESSIONAL. YOU ACKNOWLEDGE THAT YOUR ATTORNEY IN THE CIVIL ACTION OR CLAIM HAS PROVIDED NO TAX, PUBLIC OR PRIVATE BENEFIT PLANNING, OR FINANCIAL ADVICE REGARDING THIS TRANSACTION."

(6) The contract shall contain a written acknowledgment by the attorney representing the consumer in the civil action or claim that states all of the following:

(a) The attorney representing the consumer in the civil action or claim has reviewed the contract and all costs and fees have been disclosed

including the annualized rate of return applied to calculate the amount to be paid by the consumer.

(b) The attorney representing the consumer in the civil action or claim is being paid on a contingency basis per a written fee agreement.

(c) All proceeds of the civil litigation will be disbursed via the trust account of the attorney representing the consumer in the civil action or claim or a settlement fund established to receive the proceeds of the civil litigation from the defendant on behalf of the consumer.

(d) The attorney representing the consumer in the civil action or claim is following the written instructions of the consumer with regard to the non-recourse civil litigation advance.

(7) For English, French, and Spanish speaking consumers, the contract shall be written in the same language in which the oral negotiations are conducted between the company and the consumer. For consumers whose primary language is not English, French, or Spanish, the principal terms of the contract shall be translated in writing into the consumer's native language, the consumer shall sign the translated document containing the principal terms and initial each page, and the translator shall sign a notarized affirmation confirming that the principal terms have been presented to the consumer in the consumer's native language and acknowledged by the consumer, in writing. Principal terms shall include all items that must be disclosed by this section.

(C) If a dispute arises between the consumer and the company concerning the contract for a non-recourse civil litigation advance, the responsibilities of the attorney representing the consumer in the civil action or claim shall be no greater than the attorney's responsibilities under the Ohio Rules of Professional Conduct.

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Speaker _____ *of the House of Representatives.*

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President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

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Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

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Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ____ day of _____, A. D. 20____.

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Secretary of State.

File No. _____ Effective Date _____