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January 29, 2024

The Honorable Susan Humphries
Chair, House Judiciary Committee
300 W. 10th, Room 519-N
Topeka, KS 66612

RE: SUPPORT of HB 2510, Third Party Litigation Financing Disclosure – WRITTEN TESTIMONY ONLY

Dear Chair Humphries and members of the Committee,

The American Property Casualty Insurance Association (APCIA) is the primary national trade association for home, auto, and business insurers. In Kansas, our member insurers provide almost 64 percent of the insurance relied upon by families and businesses for their protection.

On behalf of our membership, we respectfully submit the following comments in **SUPPORT of HB 2510**.

Third-party litigation financing is a rapidly growing and extremely concerning trend in our judicial system in both personal and commercial litigation. It is an estimated \$13 billion industry in the United States, according to a December, 2022 report of the Government Accounting Office (GAO). Lawsuits are increasingly being viewed as investment vehicles, degrading our civil justice system. As you are aware, TPLF is defined as any provision of financing where repayment is conditioned on, and sourced from, the proceeds obtained from a civil lawsuit. It is typically structured as a non-recourse investment by a funder in a lawsuit or arbitration in exchange for an agreed-upon payment by the litigant to the funder from the proceeds of the legal proceeding – at an exorbitantly high interest rate or as a significant portion of the proceeds from the legal proceeding.

When parties to TPLF agreements are not required to disclose their involvement, defendants and courts are not aware of the presence or identity of the funders as real parties in interest. Unfortunately, the economic interests of the financiers in these transactions are substantially enhanced by prolonged litigation and by discouraging the amicable settlement of disputes, both of which inure to the benefit of the third-party funders. It is therefore critical, and we believe only fair, that all parties engaged in the litigation be informed of the existence of these agreements to ensure that both plaintiffs and defendants are equally equipped to pursue justice.

Because of these concerns, states and courts are now taking action. Missouri and Oklahoma have recently passed legislation requiring TPLF discovery to parties, joining West Virginia, Wisconsin, Indiana, and Montana. Similar legislation is pending elsewhere. Courts are also requiring disclosure via local rules and

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standing orders, including the U.S. District Courts in Delaware, New Jersey, and the North and Central Districts of California.

HB 2510 simply brings the same transparency to TPLF agreements as the Kansas discovery statute currently requires for insurance agreements. There is no reason why anyone who truly has nothing to hide should oppose this commonsense legislation.

While we prefer the more robust disclosure requirements that some of the other states have passed, we applaud the work that has been done to gain support for this bill from a wide range of stakeholders. We believe this will still facilitate critical litigation transparency and help restore balance to the legal system.

We appreciate the opportunity to express our support and urge the committee to vote "YES" on HB 2510. Please contact me directly at 512-461-1964 or via e-mail at scot.kibbe@apcia.org or APCIA's local counsels Larrie Ann Brown at (785) 640-2747 via e-mail at larrieannbrown@gmail.com and Brad Smoot at 785-224-1200 or via e-mail at bradsmoot@smootlawoffice.com with any questions.

Sincerely,

Scot Kibbe

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