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**NCOIL STEPS UP CONSUMER LEGAL FUNDING DEBATE,  
PLANS PROPOSED MODEL FOR ANNUAL MEETING**

**Troy, New York, July 31, 2013**—NCOIL legislators at their Nashville Annual Meeting will work to wrap up a two-year debate on how to regulate controversial financial transactions between third parties and consumer plaintiffs. After considering three distinct proposals for many months, including at the July Summer Meeting, lawmakers' plan for November is to explore the pros and cons of a single model law—one that could include a cap on lender fees.

According to Property-Casualty Insurance Committee Chair Rep. Matt Lehman (IN), "Although there's been value in looking at different approaches to best serve consumers and others involved, the time has definitely come—if we want to resolve this long-standing NCOIL issue—to focus our efforts on one piece of legislation."

As sponsor of a draft *Model Consumer Lawsuit Lending Alignment Bill*, Rep. Lehman commented that "Any proposed model must offer a common-sense approach to the kinds of fees that lenders can charge. A consumer should not have to pay excessively high rates for what is, in many cases, just a small amount of funding. Capping lender fees is appropriate."

NCOIL President Rep. Charles Curtiss (TN)—who brought the issue to NCOIL and offered the first proposed model law, a draft *Consumer Legal Funding Model Act*, for discussion—asserted, "This issue is all about protecting consumers and establishing good parameters for the industry, and NCOIL has a unique ability to do that. We've built a good foundation to make tough decisions in November, and we're more likely to do that with one approach on the table rather than a few."

NCOIL Vice President Sen. Neil Breslin (NY), who is offering a draft *Civil Justice Funding Model Act* for discussion, said that "What's critical to remember is that consumer funding encourages a level playing field—so that consumers aren't prevented from accessing the court system because they need a little temporary funding to get by while waiting for a decision. We've looked at this issue from various perspectives for a long time, and now we need to act in a way that achieves fairness for all involved."

Rep. Lehman's proposal focuses on lender charges. The draft would subject consumer legal funding to the same state laws that regulate consumer credit transactions—including interest rate caps. The proposal also would require a plaintiff who has accepted third-party funding to file transaction info with the opposing party and the court.

The proposals offered by Rep. Curtiss and Sen. Breslin are similar in that they both would subject consumer legal funding to various disclosure requirements. They also would ban referral fees, create guidelines for distributing proceeds, and set forth attorney requirements, among other things.

The two proposed models differ, however, regarding the length of time that a lender can assess fees, whether to require arbitration when disputes arise, and whether multiple lenders could simultaneously fund a consumer, among other provisions.

In general, consumer legal funding, also known as non-recourse funding, takes place when a lending company gives money to a plaintiff in return for receiving a portion of any settlement or award. The third-party lender receives nothing—including the amount of the original loan—if the plaintiff loses. Consumers often use the funds to pay daily expenses while a lawsuit works its way through the courts.

The NCOIL Annual Meeting will run from November 21 to 24 in Nashville, Tennessee.

The proposed consumer legal funding model acts are available at [www.ncoil.org](http://www.ncoil.org), on the Model Laws & Resolutions/Committee Working Drafts page.

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