

# Statutes Aimed at Preventing Predatory Consumer Litigation Lending

## Consumer Protection

## States

	Maine	Nebraska	Ohio	Oklahoma
<b>Proper Execution of Agreement</b>				
Contract must be in writing	9A-12-104.1	25-3303(1)(a)	1349.55(B)	14A 3 -805(A)(1)
Contract must be completely filled in	9A-12-104.2	25-3303(1)(a)	1349.55(B)(5)	14A 3 -805A(3)
Use ordinary language	9A-12-104.1	See 25.3303(b)		
Addresses English as second language	9A-12-104.10		1349.55(B)(7)	
Consumer initials every page	9A-12-104.4		1349.55(B)(4)	14A 3 -805(A)(2)
Disclaimer to read and have a lawyer review before signing and get entire agreement	9A-12 -104.4	25.3303(e)	1349.55(B)(5)	14A- 3 -807(F)
Funder must provide consumer or counsel with complete copy of agreement		25.3303(e)	1349.55(B)(5)	14A-3- 814(A)(5)

## **Provide Sufficient Disclosures to Assure Understanding**

### **Disclaimers**

Clear and conspicuous disclaimers  
Notified of rescission right

See 1349.55(B)(2)  
1349.55(B)(2)

9A-12-104.3  
9A-12-104.3

25.3303(b)  
25.3303(b)

14A -3- 807(A)  
14A- 3- 806 & 807(C)

### **Clear disclosure**

Notified of non-recourse nature of the arrangement  
Total dollar to be paid to consumer itemized one-time fees

1349.55(B)(1)(a-d)  
1349.55(B)(1)(a-d)

25.3303(g)  
25.3303(a)(1)  
25.3303(a)(1)  
25.3303(a)(1) (must state method of calculating interest)

14A-3-807(E)  
14A 3 -807  
14A 3 -807

Calculation of interest

1349.55(B)(1)(a-d)

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Recovery period	9-A-12-104.2 (capped at 42 months)	25.3303(a)(1) (capped at 36 months)	1349.55(B)(1)(a-d)	14A 3 -807(B) (4)(b) sets out amounts due at the end of each 180 day period
Total amount being assigned to ALF over term	9-A-12-104.2	25.3303(a)(1)		14A 3 -807

## Consumer Acknowledgements

Having reviewed contract in entirety

25.3303(d)

## Provide Information About Alternative

### Funding Sources

Information on registered funds maintained on government website

9A-12-104.5

Contract directs consumer to website to confirm registration of proposed lender

9A-12-104.5

Annual reports from ALF

9A-12.107.3

Annual reports by the administrator

9A-12.107.4

## Prevent Collusion Between Consumer's Counsel and Funder

Attorney acknowledges representation/reviewed fees/discussed with client

9A-12-1049

Prohibition against payment or acceptance of referral fees between funder, consumer's counsel and medical providers

1349.55(B)(6)

25.3304(1) & (2)

14A 3 814(A) (1) & (2)

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	Maine	Nebraska	Ohio	Oklahoma
Prohibition against funder referring cases to consumer's attorney/medical provider				14A 3 -814(A)(4)
Consumer notifies ALF of settlement/resolution				14A - 3 -807(D)(3)
Plaintiff's lawyer not required to assign part of his recovery unless under separate agreement to do so				14A- 3- 804
Funder can not participate in litigation	9A-12-104.7	25.3303(1)(c)	1349.55(B)(3)	14A - 3 -807( D) & 3-814A7
Funder cannot require mandatory arbitration in disputes with consumer	9A-12-104.8			
Prevailing party in dispute between consumer and funder gets attorneys' fees and costs	9A-12-104.11 (if contract so provides)			

## **Restrict Funder Returns and Operations**

### **Restrictions on amount to be paid to funder**

Consumer can't use proceeds for legal fees or costs of the litigation  
 Payment to funder cannot be based upon recovery by Plaintiff

14A-3-814(A)(8)  
 14A 3 - 808

Manner of calculation of compounding period

9-A-12-105.2 (semiannually)  
 25.3305(2) semiannually  
 1349.55(B)(1)(d)-- must state frequency of compounding

Duration of period of increasing funder payment

9-A-12-104.2 (capped at 42 months)  
 25.3305(3) no more than 36 months  
 1349.55(B)(1)(c)-- limited to 36 months

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<b>Restrictions on operations</b>				
Applicable only to individuals	9-A-12-104.1	25-3302 Ne resident or internet choosing NE	1349.55 (2) includes entity residing or domiciled in Ohio	
Prohibition against false or intentionally misleading information about funder or its services				
Can operate only from registered office	9A-12-106.7	25.3304(3)		14A-3814(A)(3)
Prohibits overfunding of plaintiff without paying off prior funder		25.3304(4)		14A 3 - 814(A)(6)

## **Require Registration**

### **Application process**

Application to permit assess of "character, fitness and financial responsibility" of applicant	9A-12-106.2	25.3309(2)		
Application to permit assessment of character and fitness of fund				14A-3-809(B)
Application requires disclosure of pending administrative, civil or criminal action pending against funder and/or principals				Yes
Application requires disclosure of revocation of funder's and/or principal's professional licenses				Yes
Application requires disclosure of monetary penalties assessed against funder and/or principals by state or federal agency				Yes
Application requires disclosure of conviction of funder and/or principal of felony				Yes
State to review consumer legal funding agreement		Application page 2		
Requires minimum net worth	9A-12-108.4 (\$25K)			

