INVENTORS
DEFENSE ALLIANCE

# The *Tackling Predatory Litigation Funding Act* Undermines Innovation and Shields Big Tech from Accountability

The "Tackling Predatory Litigation Funding Act" would impose a sweeping 40.8% entity-level tax on litigation funding profits — even for traditionally untaxed pass-throughs. This radical tax shift would cripple litigation finance — the only viable path for many inventors and small businesses to enforce their patent rights.

**By targeting the financial backbone of IP enforcement, the bill would further tip the scales in favor of entrenched corporate interests — especially Big Tech.** The result would be near-total immunity for repeat infringers, achieved not through law, but by cutting off inventors' access to justice.

**For inventors, this bill is a death knell for enforcement.** The U.S. patent system already favors well-capitalized defendants who practice "efficient infringement"— violating patents knowing most inventors can't afford to fight back.

- A large company copies a patented invention.
- The inventor can't afford the millions needed to litigate.
- Without third-party funding, asserting rights becomes economically impossible.

By cutting off litigation finance, the bill cements this imbalance and ensures only the most powerful can access justice.

Big Tech firms — frequent defendants in patent suits — stand to benefit the most. By dismantling litigation finance, the bill makes patent enforcement a privilege of the rich and silences legitimate claims under the guise of transparency.

**This legislation imposes the most aggressive tax penalty ever proposed on legal capital.** It mandates a 40.8% tax at the entity level — combining the top personal income rate and the net investment income tax — on all litigation funding profits. This applies to U.S. and foreign partnerships, nonprofits, and even tax-exempt public pension funds. Critically:

- The tax applies at the entity level, undermining the pass-through principle that is foundational to federal tax law.
- Withholding requirements are imposed on law firms and plaintiffs, creating compliance traps and raising complex, unresolved questions about how revenue will flow and how the tax will be applied.
- The reach extends to litigation outside the United States.

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**The bill discards decades of settled tax law,** undermining the principle that pass-throughs like partnerships and LLCs shouldn't be taxed at the entity level. The bill abandons this long-standing principle, imposing a new 40.8% entity-level tax, even on income that has traditionally bypassed corporate taxation.

If enacted:

- Pension funds and university endowments — currently exempt — would face massive tax exposure.
- The bill sets a dangerous precedent: taxing disfavored sectors not based on economic rationale, but political expediency.

**Though framed as a crackdown on "predatory" finance, the bill's vague definitions threaten legitimate business arrangements — from asset-backed loans and rescue financing to plaintiff-side contingency agreements.**

Rather than preventing abuse, the bill creates chilling uncertainty across finance, insurance, and legal markets.

**Real reform requires precision, not a sledgehammer.** If the concern is foreign investors, Congress already has tools: tighter reporting, targeted registration, and judicial discretion.

This bill isn't reform — it's a reward for corporate infringement. It punishes those who enable justice, not those who break the law.

**The Inventors Defense Alliance urges Congress to reject this misguided proposal. Without litigation finance, IP enforcement collapses — and with it, the incentives that drive American innovation.**