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# The "Protecting Third Party Litigation Funding From Abuse" Act Threatens American Innovators

The *Protecting Third Party Litigation Funding From Abuse Act* deters private investment and undermines innovation by penalizing companies that must enforce their intellectual property rights. Despite its title, the Act is not limited to litigation funders; its disclosure requirements reach any person with a contingent right to litigation proceeds, creating significant risk for investors and innovators alike.

## PRIVATE INVESTMENT IS AT RISK

Innovative companies often rely on private investment to survive and grow, particularly in sectors such as biotechnology, advanced manufacturing, and software, where intellectual property is a core asset and litigation may be necessary to enforce or protect it.

Under the Act, companies seeking to enforce their rights face uncertainty over who may be deemed to hold a "contingent" right to litigation proceeds and therefore subject to disclosure. Because modern investment agreements are complex, this uncertainty will chill the flow of private capital into U.S. businesses -- especially those whose value depends on intellectual property.

Whether disclosure is clearly required or merely uncertain, the Act incentivizes over-disclosure and defensive structuring, deterring investors from supporting innovative companies.

## OVERBROAD DISCLOSURE UNDERMINES IP RIGHTS

By sweeping in "any person" entitled to "any payment or thing of value," the Act creates substantial uncertainty for IP-focused investment structures, including:

- Equity investors backing IP rights enforcement
- Family offices supporting inventors in high-stakes infringement cases
- IP-focused funds whose returns depend on successful enforcement
- Pensions and other pooled institutional investors with exposure to litigation outcomes
- Limited partnerships, where funds may have hundreds of underlying investors

The Act provides little guidance on whether, when, or how investors with indirect economic interests could be deemed "litigation beneficiaries," inviting intrusive scrutiny of fund structures and further incentivizing over-disclosure.

## TILTING THE PLAYING FIELD FURTHER TOWARD BIG TECH

Patent litigation is highly asymmetric; large companies can easily delay proceedings and outspend inventors into submission. By forcing disclosure of sensitive investment and ownership arrangements, the Act gives dominant defendants insight into plaintiffs' financial backing -- tilting the playing field further toward large infringers and weakening incentives to innovate.