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H.B. 105
(1_136_0706-3)
136th General Assembly

Fiscal Note & Local Impact Statement

[Click here for H.B. 105's Bill Analysis](#)

Version: In House Insurance

Primary Sponsors: Reps. Craig and J. Thomas

Local Impact Statement Procedure Required: No

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Highlights

- The costs for the Office of the Attorney General's Consumer Protection Section to investigate matters related to nonrecourse litigation funding agreements will depend on the number of complaints filed/reported, investigations performed, and enforcement actions taken. To some degree, any related increase in operating costs might be offset by the collection of civil penalties credited to the Consumer Protection Enforcement Fund (Fund 6310).
- Any increase in the annual operating costs of courts of common pleas to adjudicate civil actions related to Consumer Sales Protection Act (CSPA) violations is likely to be no more than minimal.
- The Attorney General will incur administrative costs to register companies engaged in the business of nonrecourse civil litigation advance and to publish consumer legal funding agreements of \$25,000 or less after redacting confidential information. The bill does not provide a funding mechanism to offset these costs.

Detailed Analysis

The bill repeals the law governing nonrecourse civil litigation advance contracts and replaces it with two subsets of regulations for commercial litigation financing agreements ("commercial agreements") and consumer legal funding agreements ("consumer agreements"). With respect to these agreements, most notably, the bill largely replicates the existing Consumer Sales Protection Act (CSPA) provisions for nonrecourse civil litigation contracts and establishes several supplemental contract-related requirements for those agreements (for details, see the "**Contract Requirements**" table of the LSC [bill analysis](#) and the [substitute bill comparative synopsis](#)).

Enforcement

Under the bill, any violation of the consumer legal funding law is considered an unfair or deceptive act or practice in violation of the CSPA, for which two civil remedies are available. The first such remedy is available to the Attorney General, who is authorized to investigate violations. The Attorney General may seek a declaratory judgment, an injunction, or other equitable relief, or organize and bring a class action. The second remedy permits a private individual to initiate a civil action.

Currently there is no mechanism for the Attorney General to enforce the law regulating these contracts. As such, there have been no investigations or civil actions filed by the Attorney General against any litigation financing lender or company. It appears that the only legal recourse now available to a consumer injured by a violation of the existing law would be to file a civil action in a county or municipal court.

Attorney General

Overall, the magnitude of work involved for the Attorney General's Consumer Protection Section to enforce the new nonrecourse civil litigation advance law will depend on the number of complaints filed/reported, investigations performed, and enforcement actions taken. For comparison, according to the latest Consumer Protection Annual Report, its Civil Investigative Unit opened 140 cases, and the Civil Legal Unit filed 33 consumer protection-related lawsuits in calendar year 2024.¹

The data illustrates that the number of Attorney General-initiated lawsuits is relatively small. This is because as a matter of practice, the Attorney General attempts to settle the issues surrounding CSPA violations prior to initiating any formal legal action. Similar to existing CSPA cases, depending on the facts of the case and pattern of conduct, the Attorney General's Office would generally seek court action against a litigation financing lender or company if a pattern of complaints is observed or when less formal negotiating strategies are unsuccessful. In that scenario, the Attorney General's Office could request that a court of common pleas issue a declaratory judgment, a temporary restraining order, or an injunction in order to persuade violators to cease their offending behavior. If a civil remedy is pursued and the court determines that a violation has occurred, the court adjudicating the matter can award the Attorney General all costs and expenses associated with its investigation, in addition to reasonable attorney's fees.

Under current law, the court may impose a civil penalty of: (1) not more than \$5,000 for each day of violation of a temporary restraining order, preliminary injunction, or a permanent injunction, and (2) not more than \$25,000 for each violation of the CSPA. The civil penalties are distributed in the following amounts: three-fourths, or 75%, to the state's Consumer Protection Enforcement Fund (Fund 6310), and one-fourth, or 25%, to the treasury of the county where the Attorney General's action is brought. The timing and magnitude of this revenue stream will be sporadic and unpredictable. Any additional operating expenses incurred may be offset by additional penalty money credited to Fund 6310.

¹ The [complete report](#) may be found on the Attorney General's website under the "Media" tab and selecting "Reports" at ohioattorneygeneral.gov.

Additionally, the Attorney General may file a complaint and seek a remedy against a commercial litigation financier found by a court to have violated the commercial litigation financing agreement law. This remedy could include barring the financier from doing business in Ohio.

Local trial courts

LBO has not collected any evidence suggesting the number of civil actions brought annually in any given local trial court will significantly change. Potentially some civil actions will be brought for breach of nonrecourse civil litigation advanced contracts. Likewise, some number of cases alleging a statutory violation involving these contracts would not be filed, and could instead be filed as a complaint with the Attorney General and perhaps informally resolved rather than litigated.² As the number of such cases is expected to be small, the bill is not expected to create a discernible ongoing fiscal effect on local trial courts, in particular courts of common pleas.

Registration

The bill requires consumer legal funding companies and commercial litigation financiers to register with the Attorney General prior to commencing business activity in Ohio. This process will require specific information, including the company's name and address, the names of its chief executive officer and, if applicable, the chair of its board of directors, and a statement indicating whether the company is part of a larger corporate group. Additionally, the registration will require a certified acknowledgment that the company's financiers have read the regulations enacted by the bill. As a result, the Attorney General may incur minimal administrative costs to register these companies. It is uncertain how many companies will register. The bill does not provide a registration fee to offset these costs.³

Publication of disclosures

The bill requires certain disclosure requirements for parties that have entered into a consumer legal funding agreement that is presumed subject to discovery. However, these requirements do not apply to agreements less than \$25,000. Instead, the party to a consumer legal funding agreement totaling less than \$25,000 must disclose the agreement to the Attorney General within 14 days after the legal claim is settled (but only if it is filed in a court prior to settlement), a final appealable order is entered by the court, or an adjudication order is entered indicating that the legal claim has reached the final stage at trial court.⁴

Upon receiving disclosure for these smaller agreements, the Attorney General is required to promptly publish the content on their public website after redacting all legally required confidential information from the disclosure. The resulting administrative and personnel costs

² Such a civil action could be commenced in a municipal and county court, both of which have jurisdiction on matters in which the amount of money in dispute is \$15,000 or less, or in a common pleas court, which has jurisdiction in actions with amounts over \$15,000.

³ The Attorney General regulates several entities with registration requirements such as fundraising counsel and professional solicitors. Those registrants must pay a \$200 annual fee.

⁴ The total funded amount is determined in aggregate; dividing it across multiple agreements does not circumvent these rules if the total exceeds \$25,000.

will depend on the workload for these tasks but will likely be absorbed utilizing existing staff and resources if the number of such agreements and subsequent disclosures are relatively small each year.

Synopsis of Fiscal Effect Changes

Under the substitute bill (L_136_0706-3), the Attorney General will incur additional administrative costs related to new requirements to register consumer legal funding companies and commercial litigation financiers. There will also be an increase in workload to promptly publish consumer legal funding agreements of \$25,000 or less, which will involve redacting confidential information. These increases in work and related costs will likely be minimal and absorbed utilizing existing staff and resources.