OHIO LEGISLATIVE SERVICE COMMISSION

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Office of Research and Drafting

Legislative Budget Office

H.B. 405
136th General Assembly

Fiscal Note & Local Impact Statement

Click here for H.B. 405's Bill Analysis

Version: As Introduced

Primary Sponsors: Reps. Lorenz and Daniels

Local Impact Statement Procedure Required: No

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Highlights

- The bill may result in a reduction in the number of Consumer Sales Practices Act (CSPA) and Home Solicitation Sales Act (HSSA) investigations for the Office of the Attorney General Consumer Protection Section. The potential decrease in expenditures will depend on the number of complaints filed/reported, investigations performed, and enforcement actions that otherwise might have been taken. There would also be a related loss in civil penalties credited to the Consumer Protection Enforcement Fund (Fund 6310).
- The bill will similarly reduce the potential revenue to county treasuries, which currently receive 25% of the civil penalties collected for CSPA violations. There may also be a slight reduction in the number of civil actions filed in local courts. However, the net annual fiscal effect of the expenditure savings and related revenue loss in filing fees for any given local jurisdiction is likely to be negligible.

Detailed Analysis

The bill exempts the sale of consumer goods service contracts and related goods or services from the Home Solicitation Sales Act (HSSA). Under continuing law, a "consumer goods service contract" means a contract or agreement to perform or pay for repairs, replacement, or maintenance of consumer goods due to a defect in materials or workmanship, normal wear and tear, power surges, or accidental damage from handling. This type of contract is effective for a specific duration and paid for by means other than the purchase of the consumer good. Certain contract types are excluded from this definition and, unchanged by the bill, would still be subject to the HSSA.

Since the HSSA provides certain consumer protections for home solicitation sales, commonly known as "door-to-door" sales, this exemption means those protections (outlined in the LSC bill analysis) will no longer apply to the sale of consumer goods service contracts. As a result, sellers of consumer goods service contracts, as well as related goods and services, will no longer have to comply with certain requirements, such as providing a three-day cooling-off period during which a consumer may cancel the contract or providing notification of the consumer's right to cancel during that cooling-off period. Under the HSSA, a seller's failure to comply with these requirements is designated as a deceptive act or practice under the Consumer Sales Practices Act (CSPA).

The Attorney General has broad authority to enforce the CSPA, including suing for injunctive relief and civil penalties. Depending upon the nature of the violation, the court is permitted to impose a civil penalty of up to between $5,000 and $25,000. Pursuant to current law, the civil penalties are distributed as follows: three-fourths, or 75%, to the state's existing Consumer Protection Enforcement Fund (Fund 6310) and one-fourth, or 25%, to the treasury of the county where the action is brought. Additionally, the CSPA allows consumers, through a private lawsuit, to recover actual economic damages plus an amount of up to $5,000.

Fiscal effect

The work involved for the Attorney General's Consumer Protection Section to enforce HSSA noncompliance is a function of the number of complaints filed or reported, investigations performed, and enforcement actions taken. Although the number of violations involving consumer goods service contracts, or HSSA violations in general, is unknown, data illustrates that the number of Attorney General-initiated CSPA lawsuits is relatively small. 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] 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.

As a result of the bill's exemption, which removes a small category of contracts from the HSSA, the number of investigations and CSPA civil actions filed may be reduced. The associated annual operating cost savings for the Attorney General and any single jurisdiction are expected to be minimal at most. There will also be a related loss in civil fines and filing fees that might otherwise have been collected. The net annual fiscal effect of the expenditure savings and related revenue loss theoretically would be largely neutral.

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[1] The 2024 Consumer Protection Report (PDF) may be found on the Attorney General's website under the "Media" tab and selecting "Reports" at ohioattorneygeneral.gov.