



Ohio Legislative Service Commission

Anthony Kremer

Fiscal Note & Local Impact Statement

Bill: H.B. 149 of the 131st G.A.

Date: May 4, 2015

Status: As Introduced

Sponsor: Reps. Dever and Patterson

Local Impact Statement Procedure Required: No

Contents: Ohio Fair Housing Law

State Fiscal Highlights

- There may be a shift in housing discrimination cases from the Civil Rights Commission to courts of common pleas. The potential effects on the Commission may be: (1) a workload and related expenditure reduction, and (2) a loss in federal fair housing program reimbursement money for cases that the Commission would otherwise have investigated.
- The Commission has expressed concern that, as a result of certain provisions of the bill, the federal Department of Housing and Urban Development may determine Ohio law as not substantially equivalent to the Fair Housing Act and thus make the Commission ineligible to receive about \$1.2 million per fiscal year in federal reimbursement money.
- The state's General Revenue Fund may gain money from the Commission's assessment of a civil penalty in housing discrimination cases.

Local Fiscal Highlights

- Courts of common pleas are expected to absorb any additional civil actions filed alleging housing discrimination with little, if any, discernible effect on their daily cost of operations.

Detailed Fiscal Analysis

The bill makes changes to the housing discrimination provisions of the Ohio Civil Rights Law by: (1) exempting certain landlords and home sellers, (2) making permissive the awarding of actual damages and attorney's fees in cases before the Civil Rights Commission, (3) allowing the Commission to assess a civil penalty instead of awarding the complainant punitive damages as under current law, and (4) allowing a person to recover attorney's fees if the Commission finds that the person did not engage in an unlawful discriminatory practice.

Housing discrimination cases

Under current law, a complainant may be awarded punitive damages in housing discrimination cases before the Civil Rights Commission. Current law also permits a court of common pleas to assess punitive damages in such cases. The bill eliminates the authority of the Commission to award punitive damages to a complainant and instead permits the Commission to assess a civil penalty that will be deposited in the state treasury.

As a result of this change, it is possible that certain persons that would otherwise have filed a charge with the Commission will instead file a civil action in the appropriate court of common pleas, as the award of punitive damages will still be available in the latter but not the former. The number of housing discrimination allegations that may shift from the Commission to a court of common pleas is not expected to be significant. A court should be able to absorb any additional civil action filings into its caseload with little, if any, discernible effect on daily operations and related costs.

The Commission receives, on average, 400 allegations of housing discrimination annually, and is reimbursed by the federal Department of Housing and Urban Development (HUD) to offset the cost of investigating these cases. For each complainant that decides to instead file a civil action in a court of common pleas, there are two potential effects for the Commission: (1) a possible workload and related expenditure reduction, and (2) a loss in federal HUD reimbursement money.

Federal HUD funding

It is possible that the state may become ineligible for noncompetitive federal funding currently received from HUD to assist in the enforcement of fair housing laws that are "substantially equivalent" to the federal Fair Housing Act. The Commission has expressed concern that, as a result of certain provisions of the bill, HUD may determine Ohio law as not substantially equivalent to the Fair Housing Act and thus make the Commission ineligible to receive fair housing money.

The Commission currently receives about \$1.2 million per fiscal year in Fair Housing Assistance Program dollars from HUD pursuant to the following agreement:

- For each case completed by the Commission, which is dual filed with HUD, the Commission receives up to \$2,600 for a finding of No Probable Cause.
- For cases that proceed to hearing, the Commission can receive up to \$6,600 per case to address the cost of litigation.

The cities of Canton, Dayton, North Olmstead, and Shaker Heights are also participating in the Fair Housing Assistance Program, but will not be affected by the bill's provisions, as city ordinances provide their jurisdiction.

Civil penalty

As noted, the bill replaces the Commission's current authority to award a complainant punitive damages with a provision permitting the Commission to assess a civil penalty against the person who has been found to have engaged in unlawful housing discrimination. Presumably, as the bill is silent on the matter, the money from the penalty will be deposited in the state treasury to the credit of the General Revenue Fund. Depending on the circumstances of the violation, the amount of a civil penalty cannot exceed \$2,000, \$5,000, or \$10,000.