OHIO LEGISLATIVE SERVICE COMMISSION

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Office of Research and Drafting

Legislative Budget Office

H.B. 188
134th General Assembly

Fiscal Note & Local Impact Statement

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Version: As Receded From by the Senate

Primary Sponsors: Reps. Lampton and Cross

Local Impact Statement Procedure Required: No

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Highlights

- Enforcing the bill's prohibition pertaining to organ donors may increase the Department of Insurance's administrative costs. Any such costs would be paid from the Department of Insurance Operating Fund (Fund 5540).
- A life, disability, or long-term care insurer that does not comply with the bill's prohibition would be committing an unfair and deceptive act or practice in the business of insurance, which carries civil penalties. Any increase in revenue from such penalties would depend on compliance with the bill; the penalties would be deposited into Fund 5540.

Detailed Analysis

The bill prohibits an insurer from discriminating against a living organ donor[1] in the offering, issuance, premium, or conditions of a policy of insurance based solely, and without any additional actuarial risks, on that person's status as a living organ donor. This prohibition applies to life, disability, and long-term care insurance policies. The bill specifies that a violation of this prohibition is defined to be an unfair and deceptive practice in the business of insurance under

[1] The bill defines a living organ donor as a living person who donates an organ to another living person. Based on a database on organ donation, a total of 7,515 living donors were Ohio residents and donated organs between January 1, 1988 and October 31, 2021. Based on the most recent years' data, a total of 316 and 218 living donors in 2019 and 2020, respectively, were Ohio residents. These data were derived from the Organ Procurement and Transplantation Network Database, administered by the U.S. Department of Health and Human Services, which reports counts of living donors, by donor state of residence.

existing section 3901.21 of the Revised Code, and the bill provides that the Superintendent of Insurance may adopt any necessary rules to carry out its requirements.

This provision may increase the Department of Insurance's administrative costs to enforce the prohibition. The Department's administrative costs are paid from the Department of Insurance Operating Fund (Fund 5540). LBO economists believe that any increase in such expenditures would likely be minimal. In addition, Fund 5540 may receive revenue from penalties assessed by the Superintendent due to insurers committing an unfair and deceptive practice in the business of insurance.[2] The amount of revenue collected would depend on insurers' compliance with the prohibition.

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[2] Under section 3901.22 of the Revised Code, not in the bill, the Superintendent may assess an insurer for half of the Department's costs of investigating the insurer for possible unfair and deceptive practices, up to $100,000. In addition, a court may levy a civil penalty up to $3,500 per violation and up to $35,000 in a six-month period for failure to comply with a cease and desist order issued by the Superintendent.