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H.B. 38
I_133_0449-1
133rd General Assembly

Fiscal Note & Local Impact Statement

[Click here for H.B. 38's Bill Analysis](#)

Version: In House Financial Institutions

Primary Sponsor: Rep. Hillyer

Local Impact Statement Procedure Required: No

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Highlights

- The number of alleged disputed information violations for county and municipal civil justice systems to adjudicate is likely to be relatively small with any additional costs minimal at most annually and absorbed by utilizing existing staff and appropriated resources. Revenue in the form of court costs and fees may offset those costs to some degree.
- The bill has no direct fiscal effect on the state.

Detailed Analysis

The bill requires a commercial credit reporting agency to provide one free credit report per year to a business that is the subject of the report, and to establish a procedure through which such a business may dispute statements on the report. If a business claims to have suffered a loss as a result of the agency failing to comply with the procedure for handling disputed information, it may file a civil action or accept a cure offer, both of which are described in more detail below.

The bill permits a business that suffers a loss as a result of a failure of a commercial credit reporting agency to take certain actions related to disputed information in the credit report to file a civil action against the agency. An action must be brought no later than two years after the occurrence of the violation. The business may recover actual damages or \$500, whichever is greater or, if the failure to comply is deemed willful, up to three times the actual damages, or \$1,000, whichever is greater. The business may be awarded reasonable attorney's fees and court costs. The business may also seek a declaratory judgment, an injunction, or other appropriate relief in an individual capacity or, where warranted, in a class action.

In addition, the bill permits a commercial reporting agency and a business to remedy a violation with a “cure offer” to compensate for inconvenience and any attorney’s or other fees, expenses, or other costs of any kind that the business may have incurred in relation to the loss. A business that accepts a cure offer cannot initiate or maintain any other action that is substantially based on the same allegations of fact. By allowing cure agreements, cases could move through the civil justice system more quickly, resulting in some level of administrative cost savings for the courts that adjudicate these matters.

The net effect of these provisions is that there is likely to be some increase in civil actions filed in common pleas, municipal, or county courts across the state. The number of additional cases is expected to be relatively small in the context of any given court’s total caseload, with the associated costs minimal at most and absorbed utilizing existing staff and appropriated resources. Court costs and fees charged by the court to adjudicate these filings may offset costs to some degree as well.

Synopsis of Fiscal Effect Changes

Under the previous version (As Introduced) of the bill, for the failure to comply with certain provisions of the bill, two civil remedies are made available. The first such remedy permits a business to initiate a civil action. The second remedy is available to the Attorney General, who is authorized to investigate violations and bring a civil action. Under the substitute bill (I_133_0449-1), fewer cases may be filed as a result of eliminating the Attorney General-initiated remedy. This change may reduce, to some degree, the amount of new administrative costs that might otherwise have been incurred by local civil justice systems under the bill to dispose of these cases.