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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
and Drafting

Legislative Budget
Office

S.B. 101
136th General Assembly

Fiscal Note & Local Impact Statement

[Click here for S.B. 101's Bill Analysis](#)

Version: As Reported by House Judiciary

Primary Sponsor: Sen. Blessing

Local Impact Statement Procedure Required: No

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Highlights

- The bill adds a requirement that the last known address of an obligor to the state or a county be recorded. The change affects several different types of obligations. This addition may entail some initial costs, likely very minimal, for the change in routine and recording of additional information. Any initial costs may be more than offset by savings resulting from having on record the addresses of debtors.
- The costs for the Office of the Attorney General's (AGO) Consumer Protection Section to investigate matters related to unfair service 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).
- Civil and criminal justice systems will be able to absorb any additional filings into their respective caseloads with little, if any, discernible effect on annual operating expenses.

Detailed Analysis

The bill makes changes to nonjudicial lien filing requirements, a memorandum of trust, and unfair service agreements. The provision related to a memorandum of trust has no direct fiscal effect on the state and local governments. Fiscal effects of other provisions are described below.

Liens

The bill requires that under the law for child support, workers' compensation, unemployment compensation, and types of taxes including personal property, sales, income, and severance, the last known address of the obligor be recorded by applicable entities. This

recording, where it does not already take place, may entail upfront costs, likely generally modest. Such costs may be more than offset for administrative agencies by having these addresses available if needed for future enforcement of obligations.

Unfair service agreements

The bill prohibits a service provider, unless exempt, from entering into, amending, or renewing a service agreement (which is a contract under which a person agrees to provide services in connection with the maintenance, purchase, or sale of residential real estate) with a consumer that meets certain conditions (described in the [LSC bill analysis](#)). A service agreement that meets these conditions is classified as an “unfair service agreement” and is declared void and unenforceable. A service provider that enters into an unfair service agreement in violation of the bill is considered to have committed an unfair or deceptive act or practice under the Consumer Sales Practices Act (CSPA).

The Office of the Attorney General (AGO) 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 AGO’s action is brought. The timing and magnitude of this potential revenue stream is uncertain. Typically, the AGO will try to negotiate a settlement and take a matter to trial as a last resort. Under the bill and the CSPA, a consumer has a private right of action and can sue the alleged violator to recover the consumer’s actual economic damages plus up to \$5,000 in noneconomic damages. If the violation is an act or practice that has already been declared deceptive or unconscionable by the AGO or by a court, then the consumer may sue to recover three times the amount of the consumer’s actual economic damages.

Overall, the number of additional AGO or consumer-initiated civil actions is expected to be relatively small in the context of a court’s total caseload. Any costs, likely minimal, would be absorbed utilizing existing staff and resources and partially offset if any civil penalties are assessed and recouped. Similarly, any fiscal effects for courts related to insurance company civil actions regarding towed vehicles is also likely to be minimal.

Recording unfair service agreements

The bill prohibits a person from recording or causing to be recorded, or a county recorder from accepting for recording, an unfair service agreement or a notice or memorandum of an unfair service agreement. The bill provides a criminal and civil remedy for violations. It makes a violation a second degree misdemeanor (punishable by up to 90 days in jail, a fine of up to \$750, or both) and allows any party with an interest in residential real estate that is the subject of the violation to commence a civil action in a court of competent jurisdiction¹ in the county in which the agreement, notice, or memorandum is recorded. If a plaintiff prevails in such an action, the court must issue a judgement declaring the service agreement, notice, or memorandum to be

¹ Municipal and county courts have limited civil jurisdiction and may only hear cases in which the amount of money in dispute does not exceed \$15,000. Common pleas courts hear all cases in which the amount of money in dispute is more than \$15,000.

unenforceable and award actual economic damages, court costs and fees, and reasonable attorney's fees.

It appears unlikely that the bill will create many new cases for local criminal and civil justice systems to process. To the extent new civil actions are filed, costs would likely be partially offset by filing fees charged by the court. For criminal violations, the costs associated with adjudication, prosecution, and indigent defense (if applicable), will likely be minimal annually for any single jurisdiction. If successfully prosecuted, counties and municipalities may gain minimal at most additional revenue collected from violators pursuant to the order of the sentencing court. In addition, there may be a negligible gain in state court costs that are credited to the Indigent Defense Support Fund (Fund 5DY0) and the Victims of Crime/Reparations Fund (Fund 4020). For misdemeanors, state court costs are \$29 and credited as follows: \$20 to Fund 5DY0 and \$9 to Fund 4020.